

ORDINANCE NO. 2022- 45

AN ORDINANCE AMENDING CHAPTER 13 OF THE CITY CODE RELATING TO ALCOHOLIC BEVERAGE CONTROL AND RELATED FEES

The City Council of the City of Bloomington, Minnesota does hereby ordain:

Section 1. That Chapter 13 of the City Code of Ordinances is amended by adding those words that are underlined and deleting those words struck through and contained in brackets [], to read as follows:

CHAPTER 13: ALCOHOLIC BEVERAGE CONTROL

ARTICLE 1: GENERAL PROVISIONS AND LICENSES

§ 13.01 PURPOSE.

Under the authority of M.S. Ch. 340A, as amended, the City Council enacts the following regulations for the sale and consumption of alcoholic beverages within its City limits. The City Council may place more restrictions on alcoholic beverages within its City limits than those contained in M.S. Ch. 340A.

§ 13.02 DEFINITIONS.

ALCOHOLIC BEVERAGE. Any beverage containing more than 0.5% alcohol by volume. Alcoholic beverage includes intoxicating liquor, wine, and 3.2% malt liquor.

ALCOHOLIC BEVERAGE TASTING. An event of 4 hours or less in duration where a person pays a fee or donation to participate, and is allowed to consume wine, malt liquor, or both, by the glass without paying a separate charge for each glass.

BREWER. A person who manufactures malt liquor for sale.

BREW PUB. A brewer who sells on-sale intoxicating liquor or 3.2% malt liquor at a restaurant located in the same building where the brewer manufactures the intoxicating liquor or 3.2% malt liquor.

BREWER TAPROOM. A brewer who holds a brewer's license under M.S. § 340A.301, as amended, who is licensed to conduct on-sale intoxicating or 3.2% malt liquor sales on the premises of or adjacent to one brewery location owned by the brewer.

COCKTAIL ROOM. A microdistillery or a distilled spirits manufacturer who is licensed to sell on-sale intoxicating liquor on the premises of or adjacent to one distillery location owned by the distiller.

CONTIGUOUS. Touching or connected throughout in an unbroken sequence.

CLUB. An incorporated organization organized under the laws of the state for civic, fraternal, social or business purposes, for intellectual improvement, or a congressionally chartered veterans' organization, which:

- (1) Has 50 or more members;

(2) Has owned or rented a building or space in a building for more than 1 year that is suitable and adequate for the accommodation of its members; and

(3) Has a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose and which no member, officer, agent, or employee receives any profit from the distribution or sale of alcoholic beverages to the members of the club, or their guests, beyond a reasonable salary or fixed wages, and voted each year by the governing body.

DINNER THEATER. Any establishment that provides live entertainment in a theater setting, provides a meal for at least 75% of those in attendance, and has a seating for at least 300 guests at tables. A performance within the *DINNER THEATER* may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a theater under this definition.

DISTILLED SPIRITS. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

DISTILLED SPIRITS MANUFACTURER. A distillery operated in the state that produces distilled spirits in a total quantity in a calendar year that exceeds the total proof gallons limit for a microdistillery.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, 3.2% malt liquor, beverages for mixing with intoxicating liquor, soft drinks, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food.

FIRE SAFETY PLAN. A site plan of the premises for a special event license or a temporarily expanded area covered by a license, issued under this Chapter, that shows all points of entry and exits, the location of all life safety devices, tents, temporary structures, any appurtenant equipment, including propane storage tanks and vaporizer, and the total occupancy limits for the licensed premises.

GAMBLING DEVICE. A device that for a consideration affords the player an opportunity to obtain something of value, other than free plays, automatically from the machine or otherwise, the award of which is determined principally by chance. It includes any video game of chance, as defined by M.S. § 609.75, subd. 8, as amended, that is not in compliance with M.S. Ch. 349, as amended.

HOTEL. An establishment where food and lodging are regularly furnished to transients and that has:

(1) A resident proprietor or manager;

(2) A dining room serving the general public at tables with seating for at least 30 guests at one time; and

(3) At least 50 guest rooms.

INTEREST. Any pecuniary interest in the ownership, operation, management, or profits of an establishment, including a person who receives money from time to time directly or indirectly from a license holder, in the absence of consideration, excluding gifts or donations. *INTEREST* does not include: (1) bona fide loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, or supplies to the establishment; (2) an interest of 5% or less in

any corporation or partnership holding a license; or (3) an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith. In determining whether an INTEREST exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the license holder and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this chapter must be considered.

INTOXICATING LIQUOR. Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2% of alcohol by weight.

ISSUING AUTHORITY. The City of Bloomington Business License Section.

LICENSED PREMISES. The premises described in the approved license application, provided that the space is compact and contiguous. In the case of a restaurant licensed for on-sale alcoholic beverages and located on a golf course, *LICENSED PREMISES* means the entire golf course except for areas where motor vehicles are regularly parked or operated.

LOBBY. A vestibule or entrance open to the general public that is physically separated and distinct from retail establishments that are accessible from the vestibule or entrance through doors.

MALT LIQUOR. Any [~~beer, ale, or other~~] beverage made from malt by fermentation, or by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, molasses, or other malt substitute that has not undergone distillation, and [~~containing~~] that contains not less than 0.5% alcohol by volume.

MANUFACTURER. A person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares, or produces alcoholic beverages for sale.

MEAL. Entrees, appetizers, and sandwiches offered on a restaurant menu.

MICRODISTILLERY. A distillery operated within the state producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

MINOR. Any person who has not attained the age of 21. A person is not 21 years of age until 8:00 a.m. on the day of that person's twenty-first birthday.

NONPROFIT CHARITABLE, RELIGIOUS, OR POLITICAL ORGANIZATIONS. Tax-exempt nonprofit, charitable, and religious organizations pursuant to § 501(c) of the Internal Revenue code or tax-exempt political organizations under § 527 of the Internal Revenue code and registered under M.S. § 10A.14, as it may be amended from time to time, and have been in existence for at least 3 years.

NONPROFIT THEATER. Any theater owned or operated by a nonprofit organization, organized under § 501(c) of the Internal Revenue code, which contains at least 300 seats. The nonprofit organization must emphasize theater related goals in its mission statement. A *NONPROFIT THEATER* must also meet the definition of "theater" in this section.

OFF-SALE. The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

ON-SALE. The sale of alcoholic beverages for consumption on the licensed premises only.

ORIGINAL PACKAGE. The sealed container in which the alcoholic beverage is placed in by the manufacturer.

PARKING, PEDESTRIAN CIRCULATION, AND TRAFFIC DIRECTIONAL PLAN. A drawing of all private and public parking areas available for an event that also shows the planned pedestrian circulation to and from those parking areas to the licensed premises and also includes a traffic directional plan and the designation and posting of fire egress lanes.

PERSON. Includes natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

POSSESSION. A person has actual possession of an alcoholic beverage or the person consciously exercised dominion and control over the alcoholic beverage.

PLACE OF WORSHIP. A building that is principally used as a place where people of the same faith or religion regularly assemble for worship.

PUBLIC CONCOURSE. A corridor or hallway open to the general public that is physically separate and distinct from the retail establishments or stores that are accessible from the corridor or hallway through doors.

RESTAURANT. Any establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, has seating for 50 or more guests at one time, and where meals are served at tables to the general public.

RETAIL. The sale of alcoholic beverages to customers for consumption.

SALE and SELL. All barbers and all manners or means of furnishing alcoholic beverages.

SCHOOL. An establishment primarily engaged in providing instructional services to elementary or secondary students with a curriculum that complies with state regulations.

SECURITY PLAN. Description of the security measures the license applicant will take to monitor sales and consumption at a special event or temporarily expanded area to ensure compliance with this code and license restrictions.

THEATER. Any establishment containing an auditorium in which live performances are regularly held for ticket holders and contains at least 300 seats. A performance within the *THEATER* may include, but is not limited to, dramatic, musical, dance or literary performances. Movie theaters do not qualify as a *THEATER* under this definition.

3.2% MALT LIQUOR. Any malt beverage with an alcoholic content of more than 0.5% by volume and not more than 3.2% by weight.

WHOLESALE. The sale of alcoholic beverages to exclusive liquor stores, government entities, or holders of retail licenses under this chapter or state law.

WHOLESALE. A person who sells alcoholic beverages to exclusive liquor stores, government entities, or holders of retail licenses under this chapter or state law.

WINE. The product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than 0.5% nor more than 24% alcohol by volume for nonindustrial use. WINE does not include distilled spirits as defined herein.

§ 13.03 LICENSE REQUIRED.

No person, except as provided in M.S. Ch. 340A, as amended, shall directly or indirectly deal in, sell, or keep for sale any alcoholic beverage in the City without a license under this Chapter. An alcoholic beverage license under this code is only effective for the compact and contiguous space identified in the approved license application.

(a) Intoxicating liquor. These licenses shall permit the sale of intoxicating liquor at the licensed premises:

- (1) On-sale license. Shall be issued only to hotels and restaurants and for sale and consumption on the licensed premises only.
- (2) On-sale club license. Shall be issued only to clubs and for sale and consumption to club members and guests of club members on the licensed premises only.
- (3) Sunday on-sale license. Shall be issued only to a person who holds a current license under subsection (a) of this section, except an off-sale license.
- (4) On-sale special event license. Shall be issued only to nonprofit, religious, charitable, or political organizations, a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year, or a microdistillery and for sale and consumption on the licensed premises only.
- (5) Theater on-sale license. Shall be issued only to theaters or dinner theaters and for sale and consumption on the licensed premises only. A theater license holder does not need to apply for a Sunday license for Sunday performances in the theater.
- (6) Brewer on-sale taproom license. Shall only be issued to a brewer who holds a brewer's license under M.S. § 340A.301, as amended, and allows the brewer to sell malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer taproom license holder does not need to apply for a Sunday license.
- (7) Cocktail room on-sale license. Shall only be issued to a microdistillery or a distilled spirits manufacturer who holds a license under M.S. § 340A.301, as amended, and allows the ~~[microdistillery]~~ license holder to sell distilled liquor produced by the ~~[microdistillery]~~ license holder for consumption on the premises of or adjacent to one distillery location owned by the distiller. A cocktail room license holder does not need to apply for a Sunday license.
- (8) Off-sale license. Shall be issued only to exclusive liquor stores and shall be for consumption off the licensed premises only.
- (9) Brewpub off-sale license. Shall be issued to a brewer who holds an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture and shall be for consumption off the licensed premises only.
- (10) Small brewer or brewer off-sale license. Shall permit the holder of a brewer's license under M.S. § 340A.301, as amended, to sell malt liquor at the licensed premises for consumption off the licensed premises only.
- (11) Cocktail room off-sale license. Shall permit the holder of a cocktail room license to sell distilled liquor at the licensed premises for consumption off the licensed premises only.

(b) Wine. These licenses shall permit the sale of wine for consumption at the licensed premises:

- (1) On-sale license. Shall be issued to only restaurants.
- (2) Theater license. Shall be issued to only theaters, dinner theaters, or nonprofit theaters.
- (3) Public recreational facility license. A political subdivision which owns and operates a public recreational facility may be issued an on-sale wine license for the purpose of dispensing wine at a restaurant located at such facility. The public recreational facility license holder shall comply with the provisions of this code except meals may be served at a restaurant located on a public recreational facility either cafeteria-style or by direct service to tables or booths.

(c) 3.2% malt liquor. These licenses shall permit the sale of 3.2% malt liquor at the licensed premises:

- (1) On-sale license. Shall be issued only to a restaurant and for sale and consumption on the licensed premises only.
- (2) On-sale special event license. This license may be granted for a special event held by a nonprofit, religious, charitable, or political organization, a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year, or a microdistillery and for sale and consumption on the licensed premises only.
- (3) On-sale club license. Shall be issued only to a club and for the sale and consumption of 3.2% malt liquor to club members and guests of club members on the licensed premises only.
- (4) Theater license. Shall be issued only to theaters, dinner theaters, or nonprofit theaters for the sale and consumption on the licensed premises only. A theater license holder does not need to apply for a Sunday license for Sunday performances in the theater.
- (5) Off-sale license. Shall be for consumption off the licensed premises only and sold in the original package. No license shall be granted to any facility selling gasoline unless the facility has been issued a Type I - IV food license in accordance with Chapter 14 of this code.
- (6) Brewpub off-sale license. May be issued to a brewer who holds an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture and shall be for consumption off the licensed premises only.

(d) Bottle club license. Shall only be issued to clubs and allows members of a club to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the club member. The license also allows the club to permit the consumption and display of intoxicating liquor on the premises. The license does not authorize the sale of alcoholic beverages without the appropriate license.

(e) The holder of an on-sale wine license and an on-sale 3.2% malt liquor license issued pursuant to state law and this code is authorized to sell intoxicating malt liquor at on-sale without an additional license.

§ 13.23 SMALL BREWER OFF-SALE AND BREWER OFF-SALE.

(a) A small brewer off-sale license holder is subject to the following restrictions:

~~(a)~~(1) The off-sale of malt liquor must be produced and packaged on the premises and limited to 128 ounces per customer per day;

~~{(b)}~~(2) The off-sale malt liquor hours of sales must conform to the hours of sale for retail off-sale license holders within the City. Malt liquor in growlers may be sold at off-sale on Sunday; and

~~{(e)}~~(3) The amount off-sale malt liquor sales are limited to 750 barrels annually.

(4) Malt liquor for off-sale consumption must be packaged in a container or combination of containers that are in compliance with Minnesota Rules 7515.1080 to 7515.1120.

(b) A brewer off-sale license holder is subject to the following restrictions:

(1) The off-sale of malt liquor must be produced and packaged on the premises;

(2) The off-sale malt liquor hours must conform to the hours of the sale for retail off-sale license holders within the City. Malt liquor growlers may be sold at off-sale on Sunday;

(3) The amount off-sale malt liquor sales are limited to 750 barrels annually; and

(4) The brewer may not brew more than 150,000 barrels of its own brands of malt liquor annually.

§ 13.24 COCKTAIL ROOM OFF-SALE.

A cocktail room off-sale license holder is subject to the following restrictions:

(a) The off-sale distilled liquor must be produced and package on the premises;

(b) The off-sale distilled liquor hours of sales must conform to the hours of sale for retail off-sale license holders within the City;

(c) The off-sale distilled liquor sales are limited to a ~~[375]~~750 ~~[milliliter]~~ milliliters ~~[bottle]~~ per customer per day, in any size container or combination of containers approved by Minnesota Statute § 340A.22; and

(d) The off-sale distilled liquor being sold by the microdistillery must also be available for distribution by wholesalers.

§ 13.25 ON-SALE SPECIAL EVENT.

An on-sale special event license holder is subject to the following restrictions:

(a) No person shall be granted ~~[more than 1]~~ a special event license ~~[within any 30-day period,]~~ in any combination not to exceed 12 days per year. An individual organization shall not be granted more than:

(1) Three four-day special event licenses;

(2) Four three-day special event licenses; or

(3) Six two-day special event licenses;

(b) No more than 3 special events shall take place at any one location within a 12-month period;

(c) A special event license may authorize the on-sale of alcoholic beverages on premises other than premises the license holder owns or permanently occupies;

(d) The special event license holder shall contract for alcoholic beverages services with a license holder or if no such contract with a license holder is provided, the license holder shall provide liquor liability insurance for the event meeting the requirements of § 13.16;

(e) All special event licenses shall be approved by the Commissioner of Public Safety pursuant to M.S. § 340A.404, subd. 10, as amended;

(f) No special event license shall be issued on school grounds or in school buildings or within 300 feet of a school during regularly scheduled classes; and

(g) A special event license holder may conduct alcoholic beverage tasting subject to the restrictions of M.S. § 340A.418, as amended.

§ 13.28 HOURS OF OPERATION.

(a) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as amended, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(b) An on-sale license holder may remain open for the sale of food or nonalcoholic beverages, or both, during the hours the service of alcoholic beverages is prohibited by this code and state law, provided that the license holder has proper food licenses under Chapter 14 of this code and provided the license holder meets each of the following requirements:

(1) By 10:00 p.m., all off-sale malt liquor sold at a licensed brewpub must be removed from the licensed premises;

(2) By 2:30 a.m., the license holder shall remove all alcoholic beverages from the restaurant, bar, and banquet room areas of the licensed premises; and

(3) No on-sale license holder may sell alcoholic beverages between the hours of 1:00 a.m. and 2:00 a.m. unless the license holder has obtained a permit from the State Commissioner of Public Safety, pursuant to M.S. § 340A.504, as amended and has been issued a special license by the City Council. A licensee may sell alcoholic beverages during a FIFA World Cup competition 30 minutes before, during, and 30 minutes after a scheduled broadcast of a live World Cup match. The sales authorized under this subdivision are not allowed during broadcasts of previously played matches. The license will expire on December 31, 2022 upon issuance of the special permit and payment of the permit fee as set forth in Appendix A of this code.

(c) A theater license holder may serve alcoholic beverages only during the hours in which the performance takes place and one hour before curtain. Only performance ticket holders may purchase alcoholic beverages for consumption on the licensed premises.

Section 2. That Appendix A of the City Code is amended by adding those words that are underlined, to read as follows:

APPENDIX A: FEE SCHEDULE

This appendix contains the various fees adopted by ordinance in the listed sections of the City Code.

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<i>Chapter 13: Alcoholic Beverage Control</i>			
<i>CODE SECTION</i>	<i>CROSS-REF</i>	<i>DESCRIPTION</i>	<i>FEE</i>

<i>Chapter 13: Alcoholic Beverage Control</i>			
<i>CODE SECTION</i>	<i>CROSS-REF</i>	<i>DESCRIPTION</i>	<i>FEE</i>
Alcoholic Beverage License Fee: <i>Intoxicating Liquor</i>			License fee
§ 13.13 (a)	§ 13.03(a) § 14.03 § 13.28	(A) On-sale	\$9,600
		(B) On-sale club	
		(1) 200 or less members	\$300
		(2) 201 to 500 members	\$500
		(3) 501 to 1,000 members	\$650
		(4) 1,001 to 2,000 members	\$800
		(5) 2,001 to 4,000 members	\$1,000
		(6) 4,001 to 6,000 members	\$1,365
		(7) 6,001 and over members	\$1,550
		(C) Sunday on-sale	\$200
		(D) On-sale special event	\$440
		(E) Theater or dinner theater on-sale	\$8,000
		(F) Brewer on-sale taproom	\$1,000
		(G) Cocktail room on-sale	\$1,000
		(H) Off-sale	\$200
		(I) Brewpub off-sale	\$200
		(J) Small brewer <u>and brewer off-sale</u>	\$200
		(K) Cocktail room off-sale	\$200
		Special License to sell from 1:00 a.m. to 2:00 a.m.	\$200
		Investigation fee	Deposit of \$500 If investigation is conducted solely in state: \$500 If investigation is conducted out of state: actual costs up to \$10,000 If additional investigation due to change in control of corporation: additional \$100

<i>Chapter 13: Alcoholic Beverage Control</i>			
<i>CODE SECTION</i>	<i>CROSS-REF</i>	<i>DESCRIPTION</i>	<i>FEE</i>
<u><i>Alcoholic Beverage License Fee: FIFA World Cup</i></u>			<u>Permit fee</u>
<u>§ 13.28(b)(3)</u>	<u>§ 13.03</u>	<u>Temporary permit fee for current license holders for the FIFA world</u>	<u>\$200</u>

Section 3. That this ordinance is effective upon publication.

Passed and adopted this 3rd day of October, 2022.

/s/ Tim Busse
Mayor

ATTEST:

/s/ Matt Brillhart
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney