

CITY OF WATERTOWN
COUNTY OF CARVER
STATE OF MINNESOTA

ORDINANCE 437

An ordinance amending Watertown City Code Chapter 6 regarding on-sale wine and on-sale malt liquor licenses to Baseball Ballparks or Stadiums.

THE CITY COUNCIL OF THE CITY OF WATERTOWN ORDAINS:

Section 1. AMENDMENT. That the Municipal Code of Watertown, Minnesota, Chapter 6—Alcoholic Beverages is hereby amended as set forth below by adding the underlined language and deleting the ~~strike through~~ language as follows:

Sec. 6-2. – Definitions

In addition to or as a supplement to the definitions contained in M.S.A. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

Alcoholic beverage, means any beverage containing more than one-half of one percent alcohol by volume and includes the term "liquor" as used in this chapter.

Baseball Ballpark or Baseball Stadium, means a person who is the owner of a summer collegiate league baseball team or baseball team competing in a league established by the Minnesota Baseball Association, or a person holding a concessions or management contract with said owner.

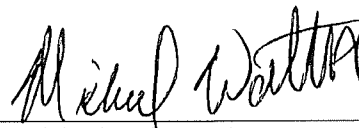
Sec. 6-10. Number and types of licenses issued by the city.

- (a) *Number of licenses.* Except as otherwise provided in this section or M.S.A. § 340A.413, there shall be no limit on the number of licenses that may be issued by the city council.
- (1) *On-sale licenses and permits:*
- a. *3.2 percent malt liquor.* The city council may issue an on-sale 3.2 percent malt liquor licenses as allowed by M.S.A. § 340A.403.
 - b. *Intoxicating liquor.* The city council may issue an on-sale intoxicating liquor licenses which may be issued as allowed by M.S.A. § 340A.404.
 - c. *Exclusive liquor store.* The city council may issue an on-sale intoxicating liquor license pursuant to M.S.A. § 340A.412, Subd. 14.
 - d. *Wine.* The city council may issue an on-sale license to sell wine as allowed by M.S.A. § 340A.404, Subd. 5. The holder of an on-sale wine license issued pursuant to this section that also holds a license to sell 3.2 percent malt liquors on-sale may also sell intoxicating malt liquors on-sale without an additional license.
 - e. *Bed and breakfast wine.* The city council may issue an on-sale wine license to a bed and breakfast facility pursuant to M.S.A. § 340A.404, Subd. 5(c).

- f. Baseball Ballpark wine. The city council may issue an on-sale wine license to a Baseball Ballpark or Baseball Stadium for sales at events at the ballpark or stadium pursuant to M.S.A. § 340A.404, subd. 1(d). The holder of an on-sale wine license issued pursuant to this section may also sell intoxicating malt liquor without an additional license.
- g. Sunday intoxicating liquor may be issued only to a licensee which has been issued an intoxicating liquor license.
- h. Consumption and display. The city council may issue a consumption and display license pursuant to M.S.A. § 340A.414 and M.S.A. § 340A.414, Subd. 9.
- i. Brew pub. The city council may issue an on-sale brew pub license as allowed by M.S.A. § 340A.24
- j. Brewer tap room. The city council may issue an on-sale brewer taproom license as allowed by M.S.A. § 340A.26
- k. Microdistillery cocktail room. The city council may issue an on-sale microdistillery cocktail room license as allowed by M.S.A. § 340A.22
- l. Temporary 3.2 percent malt liquor. The city council may issue an on-sale 3.2 percent malt liquor license as allowed by M.S.A. § 340A.403, Subd. 2.
- m. Temporary intoxicating liquor. The city council may issue on-sale intoxicating liquor license as allowed by M.S.A. § 340A.404, Subd. 10.

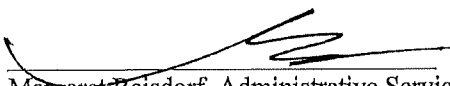
Section 2. EFFECTIVE DATE. This Ordinance shall be effective immediately upon its passage and publication.

Adopted by the City Council of the City of Watertown this 25 day of April, 2023.



Michael Walters, Mayor

ATTEST:



Margaret Reisdorf, Administrative Services Director

(Ordinance Summary)

ORDINANCE NO. 437
CITY OF WATERTOWN

**AN ORDINANCE AMENDING WATERTOWN CITY CODE CHAPTER 6: ALCOHOLIC
BEVERAGES REGARDING ON-SALE WINE AND ON-SALE MALT LIQUOR LICENSES
TO BASEBALL BALLPARKS OR STADIUMS**

The above-referenced Ordinance amends the Municipal Code of Watertown, Minnesota, Chapter 6, Alcoholic Beverages regarding on-sale wine and on-sale malt liquor licenses to Baseball Ballparks or Stadiums.

A printed copy of the entire Ordinance is available for inspection and copying at the Watertown City Hall, at 309 Lewis Avenue S., Watertown, MN 55388

Dated: April 25, 2023

Margaret Reisdorf, Administrative Services Director

City of Watertown

Request for Action

Watertown City Council

April 25, 2023

Agenda Item:	Liquor Licensing Changes for Baseball Ballparks and Stadiums
Request for Action:	Adopt Ordinance 437 amending the City of Watertown's Chapter 6: Alcoholic Beverages, regarding on-sale wine and on-sale malt liquor licenses to baseball ballparks and stadiums.
Employee/Dept.:	Margaret Reisdorf, Administrative Services Director

Background:

In 2022, the Minnesota State Legislature passed a new law (Chapter 86) that made changes to liquor licensing and related rules. It was signed into law by Minnesota Governor Tim Walz and went into effect on May 23, 2022.

As part of the new law, the statute allows a municipality to issue an on-sale wine and on-sale malt liquor license to a baseball team completing in a league that is established by the Minnesota Baseball Association.

The license can also be issued to a person holding a concessions or management contract for beverage sales at a ballpark for the purposes of summer town ball games.

City Code Amendment:

The current Watertown City Code does not permit baseball teams to apply for liquor licenses. With the passing of the new State Statute, the City of Watertown needs to update its City Code to match the new law.

Staff have collaborated with the City Attorney to review and make proposed amendments to the City Code that reflect the changes made at the state level.

Recommendation:

Staff is recommending approval of the is recommending approval of Ordinance 437 that outlines the proposed amendments to reflect the state statute related to on-sale wine and on-sale malt liquor licensing to baseball ballparks or stadiums,

Motion Type:

Simple majority vote of members present.

Requested Action/Motion:

"I move to adopt Ordinance 437 amending the Watertown City Code Chapter 6 regarding on-sale wine and on-sale malt liquor licenses to Baseball Ballparks or Stadiums".

Attachments:

Watertown City Code: Chapter 6: Alcoholic Beverages – Current.

Ordinance 437: Watertown City Code: Chapter 6: Alcoholic Beverages – Amendment Document.

Ordinance 437 (Ordinance Summary for Newspaper).

Chapter 6 ALCOHOLIC BEVERAGES¹

Sec. 6-1. Adoption of state law by reference.

The provisions of M.S.A. ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of alcoholic beverages including intoxicating liquor, 3.2 percent malt liquor and wine are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the city council that all future amendments to M.S.A. ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time the ordinance from which this article is derived is adopted.

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

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-2. Definitions.

In addition to or as a supplement to the definitions contained in M.S.A. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

Alcoholic beverage, means any beverage containing more than one-half of one percent alcohol by volume and includes the term "liquor" as used in this chapter.

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

Brew pub, means a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by M.S.A. § 340A.24.

¹Editor's note(s)—Ord. No. 395, adopted May 10, 2016, amended Ch. 6Editor's note(s)— in its entirety to read as herein set out. Former Ch. 6Editor's note(s)—, §§ 6-1Editor's note(s)—6-3, § 6-3.5Editor's note(s)—, §§ 6-4Editor's note(s)—6-15, § 6-15.5Editor's note(s)—, and §§ 6-16Editor's note(s)—6-31, pertained to the same subject matter and derived from Ord. No. 81, adopted Oct. 2, 1974; Ord. No. 154, adopted Jan. 7, 1987; Ord. No. 237, adopted Oct. 8, 2002; Ord. No. 245, adopted Apr. 22, 2003; and Ord. No. 263, adopted Dec. 14, 2004.

Cross reference(s)—Administration, ch. 2Cross reference(s)—; building and building regulations, ch. 14Cross reference(s)—; offenses and miscellaneous provisions, ch. 34Cross reference(s)—; parks and recreation, ch. 38Cross reference(s)—; sexually oriented businesses, ch. 47Cross reference(s)—; signs, ch. 48Cross reference(s)—; traffic and motor vehicles, ch. 54Cross reference(s)—; zoning, ch. 62Cross reference(s)—.

State law reference(s)—Liquor act, M.S.A. § 340A.101 et seq.

Club, means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:

- (1) Has more than 30 members;
- (2) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and
- (3) Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Cocktail room, means an accessory building or use that is located on or adjacent to a distillery that is used for the on-sale consumption of distilled liquor produced by the distiller as permitted by M.S.A. § 340A.22, Subd. 2.

Exclusive liquor store, means an establishment used exclusively for the sale of those items authorized by M.S.A. § 340A.412, Subd. 14.

Growler, means a 64-ounce container packaged and labeled as required by M.S.A. § 340A.285.

Hotel, means an establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time and a minimum of ten guest rooms.

Intoxicating liquor, means ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Liquor, as used in this chapter, except as the context may otherwise require, without modification by the words "intoxicating" or "3.2 percent malt", includes intoxicating liquor, 3.2 percent malt liquor, malt liquor and wine.

Malt liquor, means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

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

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.

Off-sale, means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

On-sale, means the sale of alcoholic beverages for consumption on the licensed premises only.

Restaurant, means an establishment, other than a hotel, under the control of a single proprietorship or manager, having facilities for seating at least 25 guests at one time, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location and which has a license from the state to serve food. An establishment which serves only prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter.

Small brewer, means a brewer that produces less than 20,000 barrels of malt liquor in a year.

Tap-room, means an accessory building or use that is located on or adjacent to a brewery producing no more than 250,000 barrels of malt liquor annually that is used for the on-sale consumption of malt liquor produced by the brewer as permitted by M.S.A. § 340A.26.

Wine, means 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 one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits.

(Ord. No. 395, § 1, 5-10-16)

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

Sec. 6-3. Nudity on the premises of licensed establishments prohibited.

- (a) The city council finds that it is in the best interests of the public health, safety and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct. The council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section reflects the prevailing community standards of the city.
- (b) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a nontransparent material.
- (c) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any alcoholic beverages license issued under this chapter or the imposition of a civil penalty under the provisions of this chapter.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-3.5. Pyrotechnics prohibited.

It is unlawful for any licensee or any other person to permit, allow or use pyrotechnics, fireworks, flares or signals of any kind in or on the licensed premises.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-4. Liquor in unlicensed places; restrictions on purchase and consumption.

- (a) No person shall mix, serve or prepare liquor for consumption in any public place or place of business unless such person has a license to sell liquor "on-sale" from the city or a permit from the commissioner of public safety under the provisions of M.S.A. § 340A.414 has been approved by the council. No person shall consume liquor in any such unlicensed place.
- (b) Subject to the approval of the state commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious or other nonprofit organizations in existence for at least three years. A

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(Supp. No. 21)

temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by state law.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-5. Consumption in public places; possession of opened containers in certain areas prohibited.

- (a) Except where and when the consumption and display of liquor is lawfully permitted, no person shall consume liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter or any municipal liquor dispensary if one exists in the city.
- (b) Except where the consumption and display of liquor is lawfully permitted, no person shall have in his or her possession while within a motor vehicle or while upon any public highway, street, alley, sidewalk, parking lot or in any park within the city any bottle, can or other receptacle containing liquor which has been opened, or the seal of which has been broken, or the contents of which has been partially removed.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-6. Exception to public consumption prohibition of beer, wine and liquor.

- (a) It shall not be illegal for a person of legal age to have in his/her possession or to consume liquor within a public park or in a public building in the city if such item was purchased from a bona fide club or organization which has received a temporary "on-sale" license from the city and such possession or consumption is at the location and on the date and during the hours provided for the sale of such item as required by such license.
- (b) It shall not be illegal for a person of legal age to have in his/her possession or to consume liquor in a public park or building when such item is offered free of charge to the consumer as part of an organized social event and under the following conditions:
 - (1) The liquor offered or provided cannot be sold at any cost—all items must be offered or provided free of charge (tip jars or passing of the hat for items is strictly prohibited).
 - (2) The person or party offering or providing the liquor agrees to defend and indemnify the city for any claims that arise as a result of the event.
 - (3) The person or party offering or providing the liquor agrees to hold the city harmless.

Sec. 6-7. Penalty for violation of chapter.

Any person violating any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-13 of this Code.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-8. Enforcement of chapter.

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

(Ord. No. 395, § 1, 5-10-16)

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(Supp. No. 21)

Sec. 6-9. Term and expiration of licenses.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the commissioner of public safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-10. Number and types of licenses issued by the city.

- (a) *Number of licenses.* Except as otherwise provided in this section or M.S.A. § 340A.413, there shall be no limit on the number of licenses that may be issued by the city council.
- (1) *On-sale licenses and permits:*
- a. *3.2 percent malt liquor.* The city council may issue an on-sale 3.2 percent malt liquor licenses as allowed by M.S.A. § 340A.403.
 - b. *Intoxicating liquor.* The city council may issue an on-sale intoxicating liquor licenses which may be issued as allowed by M.S.A. § 340A.404.
 - c. *Exclusive liquor store.* The city council may issue an on-sale intoxicating liquor license pursuant to M.S.A. § 340A.412, Subd. 14.
 - d. *Wine.* The city council may issue an on-sale license to sell wine as allowed by M.S.A. § 340A.404, Subd. 5. The holder of an on-sale wine license issued pursuant to this section that also holds a license to sell 3.2 percent malt liquors on-sale may also sell intoxicating malt liquors on-sale without an additional license.
 - e. *Bed and breakfast wine.* The city council may issue an on-sale wine license to a bed and breakfast facility pursuant to M.S.A. § 340A.404, Subd. 5(c).
 - f. *Sunday intoxicating liquor* may be issued only to a licensee which has been issued an intoxicating liquor license.
 - g. *Consumption and display.* The city council may issue a consumption and display license pursuant to M.S.A. § 340A.414 and M.S.A. § 340A.414, Subd. 9.
 - h. *Brew pub.* The city council may issue an on-sale brew pub license as allowed by M.S.A. § 340A.24
 - i. *Brewer tap room.* The city council may issue an on-sale brewer taproom license as allowed by M.S.A. § 340A.26
 - j. *Microdistillery cocktail room.* The city council may issue an on-sale microdistillery cocktail room license as allowed by M.S.A. § 340A.22
 - k. *Temporary 3.2 percent malt liquor.* The city council may issue an on-sale 3.2 percent malt liquor license as allowed by M.S.A. § 340A.403, Subd. 2.
 - l. *Temporary intoxicating liquor.* The city council may issue on-sale intoxicating liquor license as allowed by M.S.A. § 340A.404, Subd. 10.
- (2) *Off-sale licenses and permits.* The city council is authorized to issue the following "off-sale" licenses:

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- a. *Intoxicating liquor.* The city council may issue an off-sale intoxicating liquor license to an exclusive liquor store as allowed by M.S.A. § 340A.405.
 - b. *Off-sale 3.2 percent malt liquor.* The city council may issue an off-sale 3.2 percent malt liquor license as allowed by M.S.A. § 340A.403.
 - c. *Small brewer.* The city council may issue an off-sale malt liquor license to a small brewer as allowed by M.S.A. §§ 340A.28 and 340A.285 (Sunday growler).
 - d. *Brew pub.* The city council may issue an off-sale intoxicating malt liquor license to a brew pub as allowed by M.S.A. §§ 340A.24 and 340A.285 (Sunday growler).
 - e. *Microdistillery.* The city council may issue an off-sale intoxicating liquor license to a microdistillery as allowed by M.S.A. § 340A.22.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-11. Intoxicating liquor; combination licenses.

The city council is authorized to issue combination on-sale and off-sale intoxicating liquor licenses, which may be issued to the same licensee pursuant to M.S.A. § 340A.406.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-12. Clubs.

Clubs shall not sell 3.2 percent malt liquor except to members and to bona fide guests in the company of members.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-13. License fees; pro rata.

- (a) No license or other fee established by the city for a liquor license shall exceed any limit established by M.S.A. ch. 340A, as it may be amended from time to time.
- (b) The council may establish from time to time by ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. No liquor license fee shall be increased without providing mailed notice of the hearing on the proposed increase to all affected licenses at least 30 days before the hearing.
- (c) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.
- (d) All license fees shall be paid in full at the time the application is filed with the city. The license fee is nonrefundable even if the application is denied. A refund of a pro rata share of an annual license fee may occur only if authorized by M.S.A. § 340A.408, Subd. 5.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-14. Licensing procedures.

- (a) At the time of an original application the applicant shall pay a minimum investigation fee in an amount to be determined from time to time by resolution of the city council for each person listed on the application form, which shall include all natural persons, partners, managers, corporate officers and corporate shareowners.

This fee shall be paid when an application is filed with the city, and it shall not be subject to refund. If the expenses of any investigation are extraordinary and exceed the minimum investigation fee the applicant shall pay all reasonable additional expenses incurred by the city for such investigation. Failure to pay such additional expenses within a five-day period shall be cause for the city to discontinue processing of the application. At any time an additional investigation is required due to a change in ownership or control of a partnership, corporation or other organization a licensee shall pay a minimum investigation fee in an amount to be determined from time to time by resolution of the city council.

- (b) All applications shall be processed by the city administrator for verification and investigation of the facts set forth therein. The chief of police or sheriff shall investigate the background of all persons listed in the application form or the city may hire other parties to make such investigations as it may deem appropriate. Jointly or separately they shall submit a written report to the city council on the results of their investigation. The city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state and with such additional information as the city council may require. If the city council deems it in the public interest to have an investigation made on a particular application for renewal of a license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the state or others 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 cost, not to exceed actual costs incurred, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.
- (c) The city council shall investigate all facts set out in the application for any alcoholic beverage license and not investigated in the preliminary background and financial investigation conducted pursuant to section 6-15(a) and (b). Upon receipt of the report of the preliminary background and financial investigation in regard to an initial application, the city council shall instruct the clerk-treasurer to cause to be published in the official newspaper of the city, at least ten days in advance, a notice of hearing to be held by the city council on the application for the intoxicating liquor, 3.2 percent malt liquor or wine license, setting forth the date, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business and such other information as the council may direct. At the hearing, an opportunity shall be given to any person to be heard for or against the granting of a license. A license shall not be approved before the next regular meeting of the city council. After the hearing under this section, the city council may, in its discretion, require further investigation and/or hearing before issuance or denial of a license. After such 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 state commissioner of public safety.
- (d) If a license is approved, the city council may withhold its issuance until the applicant has qualified in all respects for said license. If the premises to be licensed is not complete at the time of approval the council may approve the license but withhold its issuance until the premises have been completed in accordance with all representations made by the applicant. In such a case the council may rescind their action approving the license if the applicant has not proceeded with reasonable dispatch to complete the subject premises, but such action may only be taken following ten days' notice to the applicant.
- (e) The issuance of any license hereunder is and shall remain at the sole and absolute discretion of the city council.
- (f) All licenses shall be and are issued subject to conformance with all provisions of this chapter and all other applicable regulations, ordinances, laws and statutes.
- (g) Each license issued hereunder shall be issued to the applicant only. Each such license shall be issued only for the premises described in the application and shall not be effective beyond the compact and contiguous space described therein.

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- (h) No transfer of a license shall be permitted from place to place or from person to person without complying with all requirements of an original application, including the payment of all fees therefore.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-15. Renewal applications.

- (a) Applications for the renewal of an existing alcoholic beverage license shall be made at least 60 days prior to the date of the expiration of the license, and shall be made in such form as the city council may approve. If, in the judgment of the city council, good and sufficient cause is shown by an applicant for his failure to file for a renewal within the time provided, the city council may, if the other applicable provisions of this chapter are complied with, grant the application.
- (b) At the earliest practical time after application is made for renewal of an "on-sale" license by a restaurant or hotel, and in any event prior to the time that the application is approved by the city council, the applicant shall file with the clerk-treasurer a statement made by a certified public accountant that shows the total gross sales and the total food sales of the restaurant or hotel for the year immediately preceding the date of filing of the renewal application. The requirement in this subsection shall not apply to renewal applications for wine licenses or 3.2 malt liquor licenses.
- (c) The council shall make such investigation of the facts set out in the application and a review of the past operation of the licensee as it may determine appropriate and may call a public hearing and take such other steps as allowed by law before the issuance of a renewal license.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-15.5. Transfer of license.

No license issued under this chapter may be transferred without the approval of the city council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-16. Hours and days of sale.

- (a) The hours of operation and days of sale shall be those set by M.S.A. § 340A.504, as it may be amended from time to time.
- (b) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (c) No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- (d) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (e) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

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(Supp. No. 21)

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-17. Conditions of license.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- (1) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the council. Proof of training shall be provided by the licensee.
- (2) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- (3) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the council to conduct compliance checks and to otherwise enter, inspect and search the premise of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- (4) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- (5) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-18. License suspension or revocation.

- (a) The city council may suspend or revoke any license issued pursuant to this chapter for the violation of any provisions of this chapter or for the violation of any other law, statute or ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages. However, no such action shall be taken without ten days' written notice to the licensee. The city council shall either suspend for up to 60 days or revoke any retail license or permit or impose a civil fine not to exceed \$2,000.00 for each violation upon a finding that the licensee or permit holder has failed to comply with any applicable statute, rule or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee or permit holder has been afforded an opportunity for a hearing pursuant to M.S.A. §§ 14.57—14.69 of the administrative procedure act. The hearing is not required to be conducted before an employee of the state office of administrative hearing. If a license is revoked, no portion of the license fee may be refunded.
- (b) The city council or the state commissioner of public safety may impose the penalties provided in this section on a retail licensee who knowingly:
 - (1) Sells alcoholic beverages to another retail licensee for the purpose of resale;
 - (2) Purchases alcoholic beverages from another retail licensee for the purpose of resale;
 - (3) Conducts or permits the conduct of gambling on the licensed premises in violation of the law;
 - (4) Fails to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under M.S.A. § 340A.508, Subd. 3;

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- (5) Sells any liquor related product to a minor.
- (c) Lapse of required dram shop insurance or withdrawal of a required proof of financial responsibility shall result in an immediate suspension of any license issued pursuant to this chapter without further action of the city council. Notice of cancellation, lapse of a current liability policy or withdrawal of proof of financial responsibility 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 withdrawal of proof of financial responsibility or of suspension or revocation of a license may request a hearing. If such a request is made in writing to the clerk-treasurer, a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this subsection shall continue until the city council determines that the financial responsibility requirements of this chapter and state law have again been met. The city council must be notified of any change in status of the holder's insurance by the insurance company providing the coverage.
- (d) The provisions of section 6-19(a) pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.
- (Ord. No. 395, § 1, 5-10-16)

Sec. 6-19. Persons ineligible for licenses.

The provisions of this section shall govern an applicant's initial and continued eligibility for a license pursuant to this chapter, and no license shall be issued to:

- (a) A natural person:
- (1) Who is not a citizen of the United States or a resident alien and not a resident of the state. If the applicant is a corporation, all shareholders shall be residents of the state.
 - (2) Who is under 21 years of age.
 - (3) Who has had an intoxicating liquor or malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns a controlling interest of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business or firm in which any such person is in any manner interested.
 - (4) Who is not of good moral character and repute.
 - (5) Who has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, or who is employed by a manufacturer or wholesaler of intoxicating liquor.
 - (6) Who has a direct or indirect financial interest in any other establishment within the city that has a license issued under this chapter. The word "interest" as used in this provision shall mean a controlling interest of any such establishment.
 - (7) Who has been convicted of a felony.
 - (8) Who within the past five years has been convicted of a violation of any law, statute or ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor.
- (b) A partnership, which has a partner ineligible for a license under above natural person section.
- (c) A corporation or other organization, which has an officer, shareowner or manager ineligible for a license under the above natural person section. The term "shareowner" as used in this provision shall mean any person who, together with direct relatives, who has a controlling interest of the assets of said corporation.

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- (d) A restaurant located on property owned by a person ineligible for a license under the above natural person section.
 - (e) A restaurant located on property upon which taxes, special assessments or other financial claims of the city are delinquent and unpaid.
 - (f) A restaurant, as defined herein, which does not have a minimum market valuation totaling an amount set from time to time by the city council on the city fee schedule. The calculation shall be estimated on a per seat basis, as computed by the city assessor.
 - (g) A foreign corporation.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-20. License restrictions.

The following provisions shall govern the initial issuance of a license and the continued validity of a license issued pursuant to this chapter:

- (1) Each license shall be issued only to the applicant and for the premises described in the application.
- (2) The licensee shall at all times comply with all provisions of this chapter and with all other applicable laws, statutes and ordinances regarding the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages, as the same shall be in effect at the time the license is issued and as the same shall exist from time to time thereafter.
- (3) All business, liability insurance and financial records of the licensee, including all financial reports and tax returns, shall be available for inspection by the city at all reasonable times.
- (4) The business of a licensee who has been issued an intoxicating liquor license shall be conducted in such a manner that at least 25 percent of the gross sales of the business for any license year shall be for the serving of food. The business of a restaurant which is part of a greater operation, such as a hotel or motel, shall be conducted in such a manner that at least 25 percent of the gross sales of the total operation attributable to the serving of food and intoxicating liquor for any license year shall be for the serving of food. The licensee shall be required to make annual reports showing the percentage of gross sales attributable to food service.
- (5) All sales of intoxicating liquor shall be made in areas designed primarily for the service of food, and no such sale shall be made in any area where the purchase of food is not available, except for those premises for which an exclusive liquor store license has been issued.
- (6) No alcoholic beverage license shall be issued or renewed for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.
- (7) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.
- (8) No license shall be issued to any person or for any place or any business ineligible under state law.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-21. Minors on premises.

- (a) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of

18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

- (b) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-22. Application for license; form.

- (a) An application form for licenses required by this chapter shall be prepared by the city administrator. In addition to any information which may be required by the Minnesota State Liquor Control Commissioner, the form shall include but not be limited to the following information:
- (1) Name of the applicant;
 - (2) Applicant's age;
 - (3) Representations as to applicant's character (with such references as the council may require);
 - (4) Applicant's citizenship;
 - (5) The type of license the applicant is seeking;
 - (6) The business in connection with which the proposed license will operate and its location;
 - (7) Whether the applicant is a natural person, partnership, corporation or other form of organization;
 - (8) If the applicant is a natural person the requested personal information about the applicant and his/her background;
 - (9) If the applicant is a partnership the names and addresses of all partners and the requested personal information about each partner and his/her background. The financial interest of each partner shall be disclosed, and a managing partner shall be designated. A true copy of the partnership agreement shall be submitted with the original application form;
 - (10) If the applicant is a corporation or other organization the names and addresses of all officers and the proposed manager, and the requested personal information about each and his/her background. The names, addresses and financial interest shall be disclosed for all corporate shareowners who, together with direct relatives, have a controlling interest of the assets of said corporation, and the requested personal information shall be furnished about each such person and his/her background. True copies of the articles of incorporation and corporate bylaws shall be submitted with the original application form;
 - (11) The amount of assets which the applicant has in the business premises, fixtures, stock and operating capital shall be disclosed, together with proof of the source of such assets;
 - (12) The names and addresses of all persons, other than those listed above, who have any financial interest in the business, premises, fixtures, stock or operating capital, together with the amount and nature of such interest and the terms for payment or other reimbursement thereof. This shall include but not be limited to all lessors, mortgagors, lenders, lien holders, trustors and persons who have co-signed notes or otherwise loaned, pledged or extended security to the applicant for any indebtedness;
 - (13) The address and legal description of the premise to be licensed and plans of the site and all buildings thereon, showing all appropriate dimensions;

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- (14) If the applicant is a natural person the application form shall be executed by that person. If the applicant is a partnership the application form shall be executed by the managing partner, and if the applicant is a corporation or other organization the application form shall be executed by a corporate or organization officer;
 - (15) How long applicant has been in that business;
 - (16) How long applicant has been in that business at that place; and
 - (17) Such other information as the council may require from time to time.
- (b) Every application for any license to sell alcoholic beverages shall also include a copy of each summons received by the applicant under M.S.A. § 340A.802 during the preceding year.
 - (c) In addition to containing the information prescribed in this section, the application for any license to sell alcoholic beverages shall be in the form prescribed by the state bureau of criminal apprehension and shall be verified and filed with the clerk-treasurer. No person shall make a false statement in an application.
- (Ord. No. 395, § 1, 5-10-16)

Sec. 6-23. Dram shop liability financial responsibility.

No alcoholic beverage license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as required in M.S.A. § 340A.409 with regard to liability under M.S.A. § 340A.801. Such proof shall be filed with the state commissioner. Applicants for licenses to whom the requirement for proof of financial responsibility applies include applicants as required in M.S.A. § 340A.409. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S.A. § 340A.409.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-24. Approval of security.

The security offered under this chapter shall be approved by the city council and, when applicable, by the state commissioner of public safety. Liability insurance policies required by this chapter but not by state law shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city at all times effective security as required in this chapter is a cause for suspension or revocation of the license.

(Ord. No. 395, § 1, 5-10-16)

Sec. 6-25. Consumption and display permits.

- (a) 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 alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner of public safety.
- (b) The presence of intoxicating liquor on the premises of such business establishment or club shall be prima facie evidence of possession of intoxicating liquor for the purpose of sale. The serving any liquid knowing that it is for the purpose of mixing with intoxicating liquor shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.
- (c) A permit for the consumption and display of intoxicating liquor to be issued by the state commissioner of public safety pursuant to M.S.A. § 340A.414 shall be subject to prior approval by the city council. Application

to the city for approval of the permit shall be on the form prescribed by the state. The council may call a public hearing on the application and grant or refuse approval of the permit.

(Ord. No. 395, § 1, 5-10-16)

Secs. 6-26—6-30. Reserved.

Editor's note(s)—Ord. No. 263, § 3, adopted Dec. 14, 2004, repealed §§ 6-27—6-30, which pertained to municipal liquor stores, provisions of state law adopted pertaining to municipal liquor stores, location and operation of said stores, and the creation of a municipal liquor store fund and derived from Ord. No. 245, adopted Apr. 22, 2003.

Sec. 6-31. Publication by summary.

- (a) *Summary approval.* Pursuant to M.S.A. § 412.191, Subd. 4, the council hereby determines that publication of the title and a summary of this chapter will clearly inform the public of the intent and effect of this chapter. The text of the summary of this chapter, entitled "Official Summary of Ordinance No. 245", is hereby approved and the council determines that it clearly informs the public of the intent and effect of this chapter.
- (b) *Publication, inspection, and posting.* The city clerk-treasurer is hereby directed that only the title of the ordinance from which this chapter is derived and the attached summary be published with a notice that a printed copy of the entire ordinance is available for inspection by any person during regular office hours at the office of the city clerk-treasurer. A copy of the entire text of the ordinance shall also be posted at the Watertown Community Library, 309 Lewis Avenue South, Watertown, Minnesota.

(Ord. No. 395, § 1, 5-10-16)