

**ORDINANCE NO. 2008-22**

**AN ORDINANCE AMENDING CITY CODE SECTIONS  
600.030, 600.035, 600.040, 600.045, 600.055, 600.070, AND  
710.005, SUBD. 16 REGARDING LIQUOR LICENSES**

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The City of Minnetonka Ordains:

**Section 1.** City code section 600.030 is amended as follows:

600.030. 3.2 Percent Malt Liquor Licenses.

The city council may issue the following types of 3.2 percent malt liquor licenses.

1. "On-sale 3.2 Percent Malt Liquor" Licenses. Retail "on-sale 3.2 percent malt liquor" licenses obtained pursuant to this ordinance will permit the licensee to sell 3.2 percent malt liquors for consumption on the licensed premises and will be issued only to restaurants, hotels, bona fide clubs and establishments used exclusively for the sale of nonintoxicating malt beverages with the incidental sale of tobacco and soft drinks.

2. "Off-sale 3.2 Percent Malt Liquor" Licenses. Retail "off-sale 3.2 percent malt liquor" licenses obtained pursuant to this ordinance will permit the licensee to sell 3.2 percent malt liquors in original packages for consumption off the premises only.

3. "Temporary" Licenses.

a. A temporary on-sale license for 3.2 percent malt liquor may be issued to a club or charitable, religious or nonprofit organization subject to the following:

(1) submission of a completed application to the director of community development at least ~~30~~60 days in advance of the event for which the license is requested;

(2) submission of evidence of insurance with the same coverage limits and provisions as is required for the issuance of an "on-sale" or "off-sale" license for an establishment with sales of 3.2 percent malt liquor of \$25,000 or more per year;

(3) posting of a performance bond in the amount of \$1,000;

(4) payment of the license fee specified in section 710;

(5) submission of a list of responsible persons who may be contacted in case of any emergency. Those persons must be residents of the twin cities metropolitan area as defined by Minn. Stat. § 473.121, subd. 2. At least one of the

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The ~~stricken~~ language is deleted; the underlined language is inserted.

listed persons must be present on the licensed premises during all hours of sale.

(6) submission of other information as may be required by the city council.

b. The license may be issued for a specified period of time, not to exceed three consecutive days, after a hearing on the matter by the city council. Notice of the hearing ~~will be mailed to all property owners within 400 feet of the subject property~~ must be published in the official newspaper at least ten days before the date of the hearing.

c. The license may be issued for an event to take place on public property, including in or near any school building.

4. Exemptions. Any person holding an on-sale intoxicating liquor license may sell 3.2 percent malt beverages at on-sale without obtaining a license under this section. Any person holding an off-sale intoxicating liquor license may sell 3.2 percent malt beverages at off-sale without obtaining a license under this section.

**Section 2.** City code section 600.035 is amended as follows:

600.035. Intoxicating Liquor Licenses.

The city council may grant the following types of intoxicating liquor licenses.

1. "On-sale intoxicating" licenses may be issued only to hotels, clubs, and restaurants. A license may be issued to clubs and congressionally chartered veterans organizations if they have been in existence for at least three years and liquor sales will only be to members and bona fide guests. A restaurant that holds an on-sale intoxicating liquor license may also operate under a caterer's permit issued by the Minnesota commissioner of public safety, if the operation is in accordance with state law.

2. "On-sale wine" licenses may be issued to restaurants for the sale of wine not exceeding 14 percent alcohol by volume and for consumption on the licensed premises only in conjunction with the sale of food. An on-sale wine license may only be issued to a restaurant that has seating for at least 25 guests at one time.

3. "On-sale culinary class" license may be issued to a business establishment that is not otherwise eligible for an on-sale intoxicating liquor license and that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the

participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only. All provisions of city code section 600 that apply to on-sale intoxicating liquor licenses apply to licenses issued under this section, except section 600.055 and other provisions inconsistent with this section.

34. “Off-sale intoxicating” licenses may be issued only to exclusive liquor stores and will permit “off-sales” of intoxicating liquor and 3.2 percent malt liquor. As an incident to these sales, ice, soft drinks and all forms of tobacco may also be sold.

45. A license for “Sunday sales” may be issued only to a hotel or restaurant to which an “on-sale” license has been issued. No Sunday sales license is needed for “on-sale wine” licensees. Except in the case of “on-sale wine” licensees, no Sunday sales of intoxicating liquor may be made without a license for Sunday sales.

56. A “consumption and display permit” may be issued to a bottle club that complies with the requirements of Minn. Stat. § 340A.414 and that has obtained a permit from the commissioner of public safety. No bottle club may operate in the city without first obtaining a permit from the city.

67. “Temporary on-sale licenses” may be issued only to a club or charitable, religious, or other nonprofit organization that has been in existence for at least three years, in connection with a social event sponsored by the organization. The licenses are subject to the same conditions listed in 600.030(3).

78. “Temporary consumption and display permits” may be issued for one day to nonprofit organizations in conjunction with social events sponsored by the organization in the city. No more than ten temporary permits may be issued in one year. The permits are subject to the same conditions listed in 600.030(3).

89. “Temporary off-sale wine licenses” may be issued to allow for the off-sale of vintage wine at an auction. The wine must be at least five years old and of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. No more than 600 cases of wine may be sold at any auction, and each license may not exceed three consecutive days.

910. Exemption. A person who holds an on-sale wine license and an on-sale 3.2 percent malt liquor license, and whose gross receipts are at least 60 percent attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional on-sale license.

**Section 3.** City code section 600.040 is amended as follows:

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The ~~stricken~~ language is deleted; the underlined language is inserted.

## 600.040. License Application.

Every person desiring a liquor license or permit under this ordinance must file with the director of community development a verified written application in the form prescribed and approved by the commissioner of public safety of the state of Minnesota. In addition to the information required on the prescribed application form and information required by any other officer or office of the state of Minnesota, the application made to the city must include the items listed below. A person must not make a false statement or material omission in a license application. Any false statement or material omission is grounds for denying or revoking a license.

1. If the applicant is a natural person:
  - a. the name, place and date of birth, street residence address, and phone number of the applicant;
  - b. the name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate of assumed name required by state law;
  - c. whether the applicant is the owner and operator of the business and if not, who is;
  - d. whether the applicant has ever used or been known by a name other than his/her true name, and if so, what was the name, or names, and information concerning dates and places where used;
  - e. whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
  - f. street address at which applicant and spouse have lived during the preceding ten years;
  - g. kind, name and location of every business or occupation applicant or spouse has been engaged in during the preceding ten years;
  - h. names and addresses of applicant's and spouse's employers and partners, if any, for the preceding ten years.
  - i. whether the applicant or spouse has ever been convicted of a violation of any state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for each

conviction;

j. whether the applicant or spouse has ever been engaged as an employee or in operating a saloon, hotel, restaurant, café, tavern or other business of a similar nature. If so, applicant must furnish information as to the time, place and length of time;

k. whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;

2. If the applicant is a partnership:

a. the names and address of all partners and all information concerning each partner as is required of an individual applicant as above;

b. the name(s) of the managing partner or partners and the interest of each partner, or partners in the business;

c. a true copy of the partnership agreement and a copy of the certificate of assumed name required by state law;

3. If the applicant is a corporation or other organization:

a. name, and if incorporated, the state of incorporation,

b. a true copy of the certificate of incorporation, articles of incorporation or association agreements;

c. the names of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about that person as is required in the case of an individual applicant; and

d. a list of all persons who, single or together with their spouse or a parent, brother, sister or child of either of them, own or control an interest in the corporation or association in excess of five percent, together with their addresses and all information as is required for an individual applicant.

4. For all applicants:

a. the floor number and street number where the sale of alcoholic beverages is to be conducted and the rooms where the beverages are to be sold or consumed. An applicant for an "on-sale" license must submit a floor plan of the dining room, or dining rooms, which will be open to the public, must show dimensions and must indicate the

number of persons intended to be served in each of the rooms. Whenever the application for an “on-sale” license is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of the preliminary plans showing the design of the proposed premises to be licensed. If the plans are on file with the department of community development, no further plans need to be filed;

b. information regarding the financial status of the applicant, including the amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture, or stock in trade, and proof of the source of the money. The director may require the applicant to submit a certification that the applicant is the real party in interest, is financially solvent, and has sufficient capital to responsibly operate the licensed establishment . The certification must be on the city’s approved form and issued by an independent, licensed or certified professional such as a lawyer or accountant ~~Whenever the application for an “on-sale” license is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of the preliminary plans showing the design of the proposed premises to be licensed. If the plans are on file with the department of community development, no further plans need to be filed;~~

c. a list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the twin cities metropolitan areas as defined by Minn. Stat. § 473.121, subd. 2;

d. for each manager and assistant manager with responsibility for service of liquor, the following information must be provided:

- (1) complete personal information requested on the city's form;
- (2) two sets of fingerprints and a photograph; and
- (3) ~~certified copies of civil and criminal records searches from the federal district court and Hennepin county district court (or alternatively, an affidavit from an attorney who has conducted those searches); and~~
- (4) ~~such other information as the director may require.~~

e. other information which the ~~city council~~director deems appropriate.

**Section 4.** City code section 600.045 is amended as follows:

## 600.045. Fees.

1. Every applicant for an “on-sale”, “off-sale”, “on-sale wine”, “on-sale culinary class”, or “Sunday sale” license or consumption and display permit must pay to the city the investigation fee specified in section 710. This fee will be for the purpose of conducting a preliminary background ~~and financial~~ investigation of the applicant. If the council believes that the public interest so warrants, it may require a similar investigation at the time of renewal of any license. If an investigation is ordered by the city council at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee for any person after the investigation has begun.
2. The annual fee for a liquor license will be as set forth in section 710.
3. Each application for a license must be accompanied by ~~a receipt from the city treasurer for~~ payment of at least 20 percent of the fee set forth in section 710 for the liquor license. The remainder of the fee will be due at the time of issuance of the license. A refund of the amount paid pursuant to this provision will be granted only if the application is withdrawn by the applicant or if the city council denies the application. All fees will be paid into the general fund.
4. Each license, except consumption and display permits, will expire on December 31st of the year in which it is issued. Consumption and display permits will expire on June 30 of each year. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month which has elapsed.
5. No refund of any fee will be made except as authorized by statute.

**Section 5.** City code section 600.055 is amended as follows:

## 600.055. Financial Responsibility.

1. Every application for a liquor license must be accompanied by evidence of adequate financial responsibility for liability in a form permitted by Minn. Stat. § 340A.409, subd. 1. This provision does not apply to “on-sale culinary class” licenses and to establishments exempt from financial responsibility requirements by Minn. Stat. § 340A.409, subd. 4.
2. A liability insurance policy must name the city of Minnetonka as an additional insured and provide for the following minimum coverages:

a. \$100,000 because of bodily injury to any one person in any one occurrence, \$200,000 because of bodily injury to two or more persons in any one occurrence, and \$50,000 because of injury or destruction of property of others in any one occurrence; and

b. \$100,000 for loss of means of support of any one person in any one occurrence, and \$200,000 for loss of means of support of two or more persons in any one occurrence.

3. The liability policy must provide that it may not be canceled for any cause either by the insured or the insurance company without first giving ten days notice to the city in writing of that intention. The policy must also provide that any amount paid by the insurance company as a result of a claim will not reduce the coverage available to pay subsequent claims.

4. A person must not operate any business or conduct any activities requiring a liquor license from the city without having in effect, and evidence on file with the city of, the financial responsibility required by this section. The failure to have the financial responsibility in effect and/or on file will be grounds for immediate revocation or suspension of a license.

**Section 6.** City code section 600.070, subd. 12 is amended as follows:

12. Mandatory Training Seminars.

a. Generally. Each licensee must have at least one representative attend all mandatory liquor license training seminars conducted by the city. The representative need not be the same person each time but must hold a position of responsibility in either the ownership or management of the licensee.

b. New licensees. For 12 months after initial issuance of a license, each new licensee must have a city-approved vendor train all managers and employees who serve alcoholic beverages, within 60 days after hire. The training must include the laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors. An owner who works at the establishment is considered a manager for this requirement.

**Section 7.** City code section 710.005, Subd. 16 is amended as follows:

16. liquor licenses

600

intoxicating liquor

bottle club	\$300.00
club, on-sale	\$100.00
<u>culinary class</u>	<u>\$100.00</u>
off-sale	\$200.00
on-sale	\$8,600.00
sale of setups	\$300.00
Sunday license	\$200.00
nonintoxicating malt liquor	
off-sale	\$130.00
on-sale	
new licenses	\$740.00
renewal licenses	\$580.00
special license	\$25.00
temporary amendment processing fee	\$200.00
wine - on-sale	\$2,000.00
investigation fee	
in state	\$500.00
out of state (actual cost	
of investigation not to exceed)	\$10,000.00

**Section 8.** A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

**Section 9.** This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on August 25, 2008.

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Janis A. Callison, Mayor

ATTEST:

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David E. Maeda, City Clerk

**ACTION ON THIS ORDINANCE:**

Date of introduction: August 11, 2008

Date of adoption: August 25, 2008

Motion for adoption: Allendorf

Seconded by: Wiersum

Voted in favor of: Allendorf, Callison, Ellingson, Hiller, Schneider, Wagner, Wiersum

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

**CERTIFIED COPY:**

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on August 25, 2008.

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David E. Maeda, City Clerk

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