

CITY OF STOCKTON
ORDINANCE #25-A
INTOXICATING LIQUOR, WINE AND MALT LIQUOR REGULATIONS

AN ORDINANCE SUPERCEDING AND REPEALING IN THEIR ENTIRETY ALL ORDINANCES RELATING TO THE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR.

The Council of the City of Stockton ordains:

Section 1. Provisions of State Law Adopted.

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

Section 2. License Required.

Subd.1. **General requirement.** No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance.

Subd. 2. **On-Sale Intoxicating Liquor licenses.** “On-sale” intoxicating liquor licenses shall be granted only to hotels, clubs, restaurants and exclusive liquor stores, and shall permit consumption of liquor only on the licensed premises.

A licensee under this subdivision may sell wine or strong beer (malt liquor greater than 3.2% alcohol by volume) without an additional license with exceptions relating to brew pub taprooms and microdistilleries.

Subd. 3. **On-Sale 3.2% Malt Liquor Licenses.** On-sale 3.2% alcohol may be issued for hotels, clubs and restaurants in accordance with Minnesota Statutes. An on-sale intoxicating liquor license holder does not need an additional 3.2% license for the premises. Licensees holding a 3.2% Malt Liquor License do not need a license for Sunday on-sales.

Subd. 4 **On-Sale Wine Licenses.** The City may issue an on-sale wine license *with* the approval of the AGE to a restaurant having facilities for seating of at least 25 guests at one time or licensed bed and breakfast meeting the qualifications of Minnesota Statutes Section 340A.404, Subdivision 5. A wine license permits the sale of wine of up to 24% alcohol by volume for consumption. The sale of strong beer (malt liquor with greater

than 3.2% alcohol) can be permitted under a Wine License to an entity that also holds a 3.2% license. Licensees holding a Wine License do not need a license for Sunday on-sales.

Subd. 4. Temporary on-sale licenses. Subject to the approval of the commissioner of public safety, temporary on-sale intoxicating liquor, wine or 3.2% malt liquor licenses may be issued only to clubs or charitable, religious, or other organizations as authorized by Minnesota Statute. A 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 Minnesota Statute 340A.404, Subd. 4. The premises on which the alcohol will be consumed will be clearly defined in the permit application.

Subd. 5 Off-sale licenses. Off sale liquor sales shall be allowed only by exclusive liquor stores with the exception of licensed microbreweries and microdistilleries as allowed by this ordinance and Minnesota Statute.

Subd.6. Special license for Sunday on-sales. A special license authorizing sales of intoxicating liquor on Sunday in conjunction with the serving of food may be issued to a licensee with an on-sale intoxicating liquor license. A special Sunday license is not needed for Sunday sales by wine or 3.2% malt liquor licensees.

Subd. 7 Brewer Taproom License. In accordance with Minn. Stat. §340A.301 as may be amended from time to time, the city may issue a brewer taproom license to a holder of a brewer wholesale license for the on-sale consumption of malt liquor produced on the licensed premises of or adjacent to one brewery location owned by the brewer. Nothing precludes the holder of the brewer taproom license from also holding a license to operate a restaurant at the brewery. Cities with municipal liquor stores may issue taproom licenses and may allow taproom to serve on-sale on Sundays.

The licensee can manufacture less than 3,500 barrels of malt liquor in a year, at any one licensed premises, for consumption on the premises or for off-sale from the premises. The licensee cannot have an ownership interest, in whole or in part, in any other licensed intoxicating liquor or malt liquor manufacturer, brewer, importer or wholesaler, except for a similarly licensed restaurant based brew pub. In addition, the licensee cannot be an officer, director, agent or employee of a licensed manufacturer, brewer, importer, or wholesaler.

The holder of a Brewer Taproom License is not required to secure a special license for Sunday On-Sale.

Subd. 8 Brewer Pub On-Sale Intoxicating License. In accordance with Minnesota Statute, the City may issue an on-sale intoxicating liquor or 3.2% malt liquor license for a restaurant operated in the place of manufacture. The licensee must possess a brewer manufacturer license issued by the State. In accordance with Minnesota Statute, a “brew pub” is defined as a brewer who holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels on malt liquor, at any one licensed premises, for consumption on the premises or for off-sale from the premises provided that off-sales may not total more than 500 barrels.

Subd. 9 Small Brewer Off-Sale License. In accordance with Minnesota Statute, the City may issue a Small Brewer Off-Sale License for the sale of malt liquor that has been produced and packaged by the brewer to be consumed off the licensed premises. The license must be approved by the AGE. Off-sale of the malt liquor may only be made during the hours as stipulated in Minnesota Statute. The malt liquor shall be packaged in sixty-four (64) ounce containers commonly known as “growlers” or in seven hundred fifty (750) milliliter bottles. The container or bottle must be sealed in the manner as described in Minnesota Statute. The malt sold at off-sale must be removed from the premises by the latest time that “off-sale” of liquor may be made pursuant to Minnesota Statute.

Retail sales under this license at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

Subd. 10a Microdistillery License. In accordance with Minnesota Statute, a microdistillery licensed by AGE may provide on its premises samples of distilled spirits manufactured on its premises in an amount not to exceed 15 milliliters per variety per person. No more than 45 milliliters may be sampled by any person on any day.

Subd. 10b Microdistillery Cocktail Room License. In accordance with Minnesota Statute, the city may issue the holder of a microdistillery a microdistillery cocktail room license authorizing the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery owned by the distiller. Nothing in this ordinance precludes the holder of a license under this section from also holding a license to operate a restaurant at the distillery. No single entity may hold a cocktail room and taproom license and a cocktail room and a taproom may not be co-located. All other provisions of the Minnesota liquor statutes that apply to other on-

sale intoxicating liquor licensees shall also apply to a license under this subdivision.

Subd. 11 Culinary Classes On-Sale License. In accordance with Minnesota Statute 340A.4041, the City may issue a limited on-sale intoxicating liquor license to a business establishment (1) not otherwise eligible for an on-sale intoxicating liquor license; and (2) that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation is 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 part of the class, for consumption on the licensed premises only.

Subd. 12. Caterer's Permit. The AGE Commission is responsible for issuing Caterer's Permits to a restaurant that holds an on-sale intoxicating liquor license issued by the City. The holder of the Caterer's Permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale intoxicating license is issued.

Subd 13. Bed and Breakfast Facilities. In accordance with Minnesota Statutes, a "bed and breakfast facility" means a place of lodging that provides not more than 8 rooms for rent to no more than 20 guests at a time; is located on the same property as the owner's personal residence; provides no meals, other than breakfast served to persons who rent the rooms; and was originally built and occupied as, or was converted to, a single family residence prior to being used as a place of lodging.

Notwithstanding Minn. Stat. §340A.401, no license is required for a bed and breakfast facility to provide at an additional charge to a person renting a room at the facility no more than 2 glasses per day containing not more than 4 fluid ounces of wine, or not more than 2 glasses per day containing not more than 12 ounces of Minnesota-produced beer. Wine or beer so furnished may be consumed only on the premises of the bed and breakfast facility. An application for bed and breakfast facilities to serve the above must be made to the AGE Commissioner.

Subd. 14. Consumption and Display Permit. In accordance with Minnesota Statute, no business establishment 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 beverages without having first obtained a permit from the AGE Commissioner.

Subd. 15 Wine or Malt Liquor Tastings. A charitable, religious, or other nonprofit organization may conduct a wine or malt liquor tasting event if the organization obtains a temporary on-sale intoxicating liquor license in accordance with conditions set by Minnesota Statute. The tasting must meet certain requirement in accordance with Minnesota Statute including the following:

- a. Obtain a temporary on-sale intoxicating liquor license;
- b. Last no more than 4 hours;
- c. Not allow the sale or the taking orders of wine for off-premises consumption;
- d. Proceeds from the tasting must be used for the organization's primary purpose or donated to another nonprofit organization assisting in the tasting.

Section 3. Application for License.

Subd. 1 Persons Eligible for a License. No retail license may be issued to a person under the age of 21, or to a person who has held, or had an interest in, an alcoholic beverage license that has been revoked for a violation of alcohol beverage laws within five years of the date of the current application. No retail license may be issued to a person who has a direct or indirect interest in a manufacturer or wholesaler of alcoholic beverages (unless allowed under Minnesota Liquor Laws). No license may be issued or renewed to any person, partnership or corporation who, within the last five years has been convicted of a felony or a willful violation of a federal, state or local ordinance governing the manufacture, sale, distribution, or possession for sale of distribution of an alcoholic beverage.

Subd. 2 Form. Every application for a license to sell alcoholic beverages shall state the name of the applicant, his/her age, representations as to his character (with such references as the council may require), his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the council may require from time to time. Every application must contain a specific description of the business premises with the numbered street address. In addition, the license application must include a complete description of the compact and contiguous area in which the licensee will conduct business including patios, decks or pavilions. If the description covers a building with more than one story or rooms which are used for business purposes other than those permitted to be in combination with the license then

the description must specify the floor and the space to which the license will apply.

Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes Section 340A.802 during the preceding year. (M.S. 340.409) In addition to containing such information, the application shall be in the form prescribed by the Minnesota AGE and shall be verified and filed with the city administrator. No person shall make a false statement in an application.

Subd. 2. Insurance Required. No retail license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liability under the statutes, Section 340A.801, through a Dram Shop Liability Insurance Policy (Liquor Liability Insurance), a surety bond with minimum coverage as required by Minnesota Statutes, or a Certificate of the State Treasurer that the licensee has deposited the required amount of cash or securities with the State Treasury as required by Minnesota Statutes. Such proof shall be filed with the commissioner of public safety. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409.

No retail license will be issued without proof of existing Workers Compensation Liability coverage or proof that the applicant is not required to comply with the Minnesota Workers Compensation Liability laws.

Section 4. License Fees.

Subd. 1 Fees. In accordance with **Fee Schedule**, a license may be issued after the license fees have been paid in full. The Fee Schedule may be amended from time to time without amending this entire ordinance.

Subd. 2 Payment. Each application for a license shall be accompanied by a receipt from the city clerk for payment in full of the license fee and the fixed investigation fee required under this ordinance or Minnesota Statute. All fees shall be paid into the general fund. If an application for a license is rejected, the administrator shall refund the amount paid as the license fee.

Subd. 3 Term; pro rata fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for a remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June.

Subd. 4 Refunds. No refund of any fee shall be made except as authorized by statute.

Section 5. Granting of Licenses.

Subd. 1 Preliminary investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the city must conduct a preliminary background and investigation of the application. If the Council deems that it is in the public's best interest to perform an extensive background investigation, such costs shall be charged to the applicant. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an on-sale license, it shall so determine. 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 bureau of criminal investigation for the investigation. **No license shall be issued, transferred, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest.** If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000.00, 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.

Subd. 2. Hearing and issuance. The city council shall investigate all facts set out in the application and not investigated in the preliminary background investigation conducted pursuant to Subdivision 1. An opportunity shall be given to prospective licensee to be heard for or against the granting of the license. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, and has been approved by the commissioner of public safety.

Subd. 3. Person and premises licensed; transfer. Each license shall be issued only to the applicant and for the premises described in the application. **No license may be transferred to another person or place without city council approval.** Any transfer of stock of a corporate licensee is deemed a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license.

Subd. 4. Health Department Regulations. Each applicant shall abide by all regulations of the Minnesota Department of Health, Food and Beverage licensing. A copy of a current licensure shall be submitted to the City Council that an establishment meets the requirements of law and in the case of an on sale intoxicating liquor establishment, has the proper facilities to qualify and be

licensed as a restaurant. When a restaurant, licensed for the sale of intoxicating liquor, is hereafter constructed or remodeled, or when an existing structure is converted for use as a restaurant, properly prepared plans and specifications for such construction, remodeling or alteration shall be approved by the Minnesota Department of Health to insure that the establishment will meet local and state standards for restaurants.

Subd. 5 License Duration. All licenses permitted under the authority of this Ordinance shall be issued on an annual basis or on a seasonal basis.

Section 6. Persons Ineligible for License.

No license shall be granted to any person made ineligible for such a license by state law. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

Section 7. Places Ineligible for License.

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

Subd. 2. Delinquent taxes and charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Section 8. Conditions of License.

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

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

Subd. 3. Licensee's responsibility. Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

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

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

Subd. 6. Employment of Minors No establishment having an on-sale license shall employ any person under eighteen (18) years of age in any of the rooms constituting the place in which liquor is sold, except that persons under eighteen (18) years of age may be employed as musicians or to perform the duties of a busboy or dishwashing services in restaurants serving food where alcohol is sold, provided further that no such person under eighteen (18) years of age may be employed as waiters or waitresses in places defined as a restaurant to serve food in rooms in which only wine is sold on-sale, provided they shall not be permitted to serve or sell wine.

Section 9. Restrictions on Purchase and Consumption.

Subd. 1. Liquor in unlicensed places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor “on-sale” or a permit from the commissioner of public safety under Minnesota Statutes Section 340A.414 and no person shall consume liquor in any such place.

Subd. 2. Consumption in public places. No person shall consume liquor on a public highway, public park, or other public place.

Subd. 3 Hours and Days of Sale. No on-sale of any liquor, wine or malt liquor may be made between 1:00 a.m. and 8:00 a.m. in accordance with Minnesota Statute and this Ordinance.

No off-sale of any liquor, wine or malt liquor may be made on:

- (1) Sundays;
- (2) Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
- (3) Thanksgiving Day;
- (4) Christmas Day, December 25; or
- (5) After 8:00 p.m. on Christmas Eve, December 24.

Section 10. Prohibited Acts and Conduct

Subd. 1. The following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore, shall not be permitted on any premises licensed:

No licensee for on-premises consumption shall suffer or permit:

- A. Any person to appear on the licensed premises in such a manner or attire as to expose to view any portion of the pubic area, anus, cleft of the buttocks, vulva, or genitals, or any simulation thereof, nor shall suffer or permit any female to appear in such a manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof.

- B. Any person to perform acts of or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law. The touching, caressing, or fondling of the breast, buttocks, anus, or genitals.

Subd. 2. Gambling. No licensee establishment is authorized to allow gambling except in accordance with Minnesota Statute.

Section 11. Suspension and Revocation.

The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000.00, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.70 of the administrative procedure act. Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall affect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. **Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the license.**

If the City receives a notification from the Minnesota Department of Revenue that a licensee owes delinquent taxes, other agency debt, or has unfiled tax returns, the city must revoke that person's license issued by the city. Upon notification from the MNDOR, the city will notify the license holder that their license is being revoked by sending a notification by certified mail within 10 days of receipt of the MNDOR notice. The notification will include information on procedures for reinstatement of the license and a copy of the MNDOR notice. The city must revoke the license within 30 day of receipt of the notice from MNDOR unless further clearance is received from MNDOR.

Section 12. Penalty.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700.00 or imprisonment in the county jail for not more than 90 days, or both, plus the cost of prosecution in any cases.

Section 13. Repeal.

This ordinance supersedes other liquor licensing or regulatory ordinances. This ordinance repeals all ordinances inconsistent with this ordinance.

Section 14. Effective date.

This ordinance becomes effective upon its passage and publication according to law.

This ordinance is subject to amendment by Stockton City Council action.

Passed by the council this _____ Day of _____, 2017.

Signed

Mayor David Johannes

Attest:

Bethany Winchester
Clerk – Treasurer

(seal)