

ORDINANCE AMENDING CHAPTER 4, SECTIONS 4.03, 4.04, AND 4.11 RELATING TO LIQUOR AND BEER LICENSING AND REGULATIONS

WHEREAS, the 2022 Legislature passed a new law (Chapter 86) that makes changes to liquor licenses and rules that went into effect on May 23, 2022; and

WHEREAS, changes were made relating to distilleries, growler sales, and small brewer off-sales; and

WHEREAS, to conform with State law changes are recommended within Mankato City Code, Chapter 4.

NOW THEREFORE BE IT ORDAINED by the City Council for the City of Mankato that Mankato City Code Chapter 4, Sections 4.03, 4.04, and 4.11 be and hereby are amended as follows:

Sec. 4.03. Definitions.

Subd. 7. Malt Liquor. “Malt Liquor” is any beverage made from malt by fermentation, or by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, molasses, or other malt substitute that has not undergone distillation, and that contains not less than one-half percent alcohol by volume. Beer means any beverage meeting the definition of malt liquor in this Chapter.

Sec. 4.04. Intoxicating Liquor Licenses.

Subd. 8. Microdistillery/Cocktail Room License. ~~A microdistillery cocktail room license may be issued to the holder of a microdistillery license issued under Minnesota Statute, Section 340A.22, subject to the following conditions:~~

~~A. — A microdistillery cocktail room license authorizes the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one (1) distillery location owned by the distiller.~~

~~B. — The City shall, within ten (10) days of the issuance of a microdistillery cocktail room license inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The City shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.~~

~~C. — At least fifty (50) percent of the annual production of the microdistillery must be processed and distilled on the premises.~~

~~D. — A microdistillery cocktail room may sell on-sale Sundays during the hours the on-sale of liquor is allowed under this Section.~~

~~E. — No single entity may hold both a distillery cocktail room and taproom license, and a cocktail room and taproom may not be collocated.~~

~~F. — A restaurant is allowed at a microdistillery with a cocktail room license.~~

(Ord. No. O-2021-0809-6, 8-9-2021)

Editor's note(s)—Ord. No. O-2021-0809-6, adopted 8-9-2021, renumbered the former § 4.04, Subds. 8—12, as § 4.04, Subds. 10—14, and enacted new § 4.04, Subd. 8, 9, as set out herein. The historical notations have been retained with the amended provisions for reference purposes.

Subd. 8. Microdistilleries; Distilled Spirit Manufacturers.

A. Activities.

1. A microdistillery licensed under this section 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 under this paragraph by any person on any day.

2. A microdistillery or distilled spirits manufacturer can sell cocktails to the public, pursuant to B.

3. A microdistillery or distilled spirits manufacturer may not operate a cocktail room under B. or conduct sales at off-sale under Subd. 9. unless at least 50 percent of the annual production of the licensee is processed and distilled on premises.

4. For purposes of calculating annual production under paragraph 3., distilled spirits that are bottled by the licensee under a contract bottling agreement with a third party are excluded from the licensee's annual production if the:

(a) third-party contractor is an independent entity that is not owned or controlled by the licensee;

(b) distilled spirits bottled under a third-party contract are not available for sale or marketed by the licensee or the third party at any location licensed under B. or Subd. 9.; and

(c) distilled spirits bottled under a third-party contract are available for distribution by wholesalers.

5. Distilled spirits produced or in production prior to July 1, 2017, are not counted as part of the calculations under paragraph 3.

B. Cocktail Room License.

1. A municipality may issue the holder of a microdistillery license or distilled spirits manufacturer license under this section a microdistillery or distilled spirits manufacturer cocktail room license. A microdistillery or distilled spirits manufacturer cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. Notwithstanding Minnesota Statute 340A.504, subdivision 3, a cocktail room may be open and may conduct on-sale business on Sundays if authorized by the municipality. Nothing in this subdivision precludes the holder of a microdistillery or distilled spirits manufacturer cocktail room license from also holding a license to operate a restaurant at the distillery. Minnesota Statute 340A.409 shall apply to a license issued under this subdivision. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subdivision unless the provision is explicitly inconsistent with this subdivision.

2. A distiller may only have one cocktail room license under this section and may not have an ownership interest in a distillery licensed under Minnesota Statute 340A.301, subdivision 6, clause (a).

3. The municipality shall impose a licensing fee on a distiller holding a microdistillery or distilled spirits manufacturer cocktail room license under this subdivision, subject to limitations applicable to license fees under Minnesota Statute 340A.408, subdivision 2, paragraph (a).

4. A municipality shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

5. No single entity may hold both a cocktail room and taproom license, and a cocktail room and taproom may not be colocated.

Subd. 9. Microdistillery Off-Sale License. A microdistillery off-sale license may be issued to the holder of a microdistillery license issued under Minnesota Statutes, Section 340A.22. ~~subject to the following conditions:~~

The license permits the sale of ~~one (1) three hundred seventy five (375) milliliter bottle~~ up to a total of 750 milliliters per customer per day of product manufactured on site, in any size container or combination of containers approved under C, subject to the following requirements:

~~BA.~~ Off-sale hours shall be limited to the legal hours for off-sale.

~~CB.~~ No brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

C. The commissioner may approve any standard fill as approved by the Alcohol and Tobacco Tax and Trade Bureau.

D. The commissioner may by rule establish reporting requirements for microdistilleries making off-sales of distilled spirits under this Subd. to ensure compliance with the 750-milliliter limit.

(Ord. No. O-2021-0809-6, 8-9-2021)

Editor's note(s)—See the editor's note to § 4.04, Subd. 8.

Subd. 10. Brew Pub Off-Sale Intoxicating. A Brew Pub Off-Sale Intoxicating malt liquor license may be issued to a brewer who holds a brewer license issued by the Minnesota Commissioner of Public Safety for the operation of a brewpub and shall operate in and as part of a restaurant establishment for which an on-sale intoxicating liquor license has been issued by the City.

A. An off-sale license may be issued solely for the malt liquor produced and packaged on the licensed premises and only upon approval of the license by the Minnesota Commissioner of Public Safety.

B. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores and must be removed from the licensed premises before the applicable off-sale closing time requirements.

C. Only malt liquor may be brewed or manufactured at the licensee's premises and not more than three thousand five hundred (3,500) barrels of malt liquor in a calendar year may be brewed or manufactured on the licensed premises.

D. The malt liquor sold off-sale shall be packaged in 64-ounce containers commonly known as "growlers" and shall have the following requirements for packaging:

1. The containers shall bear a twist type closure, cork, stopper, or plug.

2. At the time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extend over the top of the twist type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container.

3. The adhesive band, strip, or sleeve shall bear the name and address of the brewer/licensee selling the malt liquor.

4. The containers shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer/licensee selling the malt liquor, and the contents in the container packaged as required herein shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with provisions of Minnesota Rules, Part 7515.1100.

(Ord. No. 16-1212-17, 12-12-2016; Ord. No. O-2021-0809-6, 8-9-2021)

Editor's note(s)—See the editor's note to § 4.04, Subd. 8.

Subd. 11. Small Brewer Off-Sale Intoxicating.

A. "Small Brewer Off-Sale ~~Intoxicating~~" license authorizes a micro-brewery that manufactures less than ~~twenty thousand (20,000)~~ one hundred fifty thousand (150,000) barrels of malt liquor per year to sell malt liquor to the public in 64-ounce containers, commonly known as "growlers," or in seven hundred fifty (750) milliliter bottles as permitted by Minnesota Statutes Section 340A.301. The amount of malt liquor sold at off-sale may not exceed ~~five hundred (500)~~ seven hundred fifty (750) barrels annually; off-sale shall be limited to the legal hours for off-sale at exclusive liquor stores, and the off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.

1. The malt liquor shall be packed in 64-ounce containers commonly known as "growlers" or in seven hundred fifty (750) milliliter bottles. The containers or bottles shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container or bottle and extended over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container or bottle. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers or bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, Part 7515.1100.

2. A brewer may, but is not required to, refill any growler with malt liquor for off-sale at the request of a customer. A brewer refilling a growler must do so at its license premises and the growler must be filled at the tap at the time of sale. A growler filled under this paragraph must be sealed and labeled in the manner described in paragraph 1.

3. A brewer may only have one (1) license under this subdivision.

4. The City may not issue a license under this subdivision to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than ~~twenty thousand (20,000)~~ one hundred fifty thousand (150,000) barrels of its own brands of malt liquor annually or a winery that produces more than two hundred fifty thousand (250,000) gallons of wine annually.

B. "Certain Small Brewer Off-Sale. Notwithstanding any law to the contrary, and in addition to the off-sale of malt liquor allowed under Minnesota Statutes Section 340A.28, a brewer licensed under Section 340A.301, Subd. 6, clause (c), (i), or (j), that produces 7,500 barrels or less of malt liquor annually may be issued a license by the City for off-sale at its licensed premises of up to 128 ounces per customer per day of malt liquor that has been produced and packaged by the brewer, as provided in 1 below. The license must be approved by the commissioner. The amount of malt liquor sole at off-sale under this section must be included in calculating the annual barrel limit imposed in Minnesota Statute 340A.28, Subd. 1.

1. Packaging. Malt liquor authorized for off-sale pursuant to B above must be packaged in a container, or combination of containers, that are in compliance with the provisions of Minnesota Rules, parts 7515. 1080 to 7515.1120.

2. Off-sale not exclusive to brewery premises. Any brand under this section must be made available for sale to a malt liquor wholesaler, other than a wholesaler owned in whole or in part by a brewer as allowed in Minnesota Statute 340A.301, Subd. 9.

3. Exception; production in 2021. Notwithstanding the 7,500-barrel limit in B above, a brewer licensed under Minnesota Statute 340A.301, Subd. 6, clause (c), (i), or (j), that produced more than 5,500 barrels but not more than 13,500 barrels of malt liquor in calendar year 2021, as demonstrated by records from the Department of Revenue, may be issued a license under this section, provided that a brewer is only allowed to make the sales authorized in this section until the brewer's production exceeds its 2021 production amount by 2,000 barrels.

4. Reporting. The commission may by rule establish reporting requirements for brewers making off-sales of malt liquor under this section to ensure compliance with the 128-ounce limit in B above.

5. Other Laws. All other requirements of Minnesota Statute 340A, not consistent with this section apply.

(Ord. No. 16-1212-17, 12-12-2016; Ord. No. O-2021-0809-6, 8-9-2021)

Editor's note(s)—See the editor's note to § 4.04, Subd. 8.

Subd. 12. Sunday Growler Off-Sale Intoxicating. Authorizes a small brewer that manufactures less than ~~twenty thousand (20,000)~~ one hundred fifty thousand (150,000) barrels of malt liquor per year to sell malt liquor to the public in 64-ounce containers, commonly known as "growlers," or in seven hundred fifty (750) milliliter bottles as permitted by Minnesota Statutes Section 340A.301, on Sundays between the hours of 8:00 a.m. and 10:00 p.m.

(Ord. No. 16-1212-17, 12-12-2016; Ord. No. O-2021-0809-6, 8-9-2021)

Editor's note(s)—See the editor's note to § 4.04, Subd. 8.

Sec. 4.11. Restrictions on Issuance.

~~**Subd. 4. Limitation on Ownership Interest by Brewer.** A brewer may not be granted an on-sale license unless the brewer's ownership interest in any other manufacturer, brewer, importer, or wholesaler of intoxicating malt liquor meets the requirements of Minnesota Statute 340A.301, Subdivision 7(a).~~ **Interest in other Business.** Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, importer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, importer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in the manufacturer, brewer, importer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

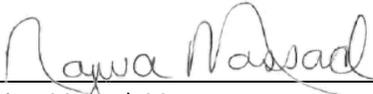
A. Except as provided in Minnesota Statute 340A.301, Subd. 9, no brewer or importer may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

B. A winery holding a license under Minnesota Statute 340A.301, Subd. 6, paragraph (b) that produces and sells, including sales from the winery's premises, no more than 2,500 barrels or its metric equivalent of cider made from apples in a calendar year may own or have an interest in a wholesaler that sells only the winery's apple-based cider products. The winery eligible to own or have an interest in a wholesaler under this subdivision must provide the commissioner with an affidavit stating that no existing wholesaler is available to represent and distribute the winery's apple-based cider to retail license holders, and detailing the actions taken by the winery in pursuing a distribution contract for the cider product.

(Ord. No. 16-1212-17, 12-12-2016)

This Ordinance shall, in accordance with the provisions of Section 2.14 and 5.06 of the Mankato City Charter, become effective thirty (30) days after publication of notice of its adoption.

Adopted this 28th day of November, 2022.



Najwa Massad, Mayor

Attest: 
Renae Kopischke, City Clerk, MMC



AGENDA RECOMMENDATION

City Council Regular Meeting

7. E.

Meeting Date: 11/28/2022

Agenda Item:

Ordinance amending Mankato City Code, Chapter 4, Sections 4.03, 4.04, and 4.11, relating to Liquor and Beer Licensing and Regulations.

Recommendation/Action(s):

Adoption of attached ordinance.

Summary:

The 2022 Legislature passed a new law making changes to liquor license rules that went into effect on May 23, 2022. Changes were made relating to distilleries, growler sales, and small brewer off-sales. To conform with State law, changes are recommended within Mankato City Code, Chapter 4 (see attached).

Attachments

Ordinance
