

## Ordinance Amendment

### Proposed Ordinance Amendment:

#### 363.10. **Definitions.**

Restaurant: An establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, having facilities for interior seating not fewer than ~~seventy-five (75)~~ fifty (50) guests at one time at tables if the application is for a Class A through Class D wine license and having facilities for seating not fewer than twenty-five (25) guests at one time at tables if the application is for a Class E wine license, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and which has gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol in an amount of not less than sixty (60) per cent of its total gross revenue from the sale of food and beverages.

### Purpose of Amendment:

- 1) Enable smaller wine serving restaurants to have live, amplified or non-amplified entertainment.
- 2) Simplify the liquor code by creating greater consistency between wine and liquor entertainment requirements.
- 3) Remove unnecessary incentive to obtain a liquor instead of a wine license.

### Potential Unintended Consequences:

- 1) Negative impact on adjacent uses. In particular, the potential increase in the number of Class A or B Wine with Strong Beer Licenses in C2 zoning districts. (Practice of Mariachi bands.)
- 2) Licensing work-load.
- 3) Conversion of buildings to wine establishments from other non-restaurant uses.

### Other Relevant Ordinances/Statutes:

#### 360.10 **Definitions.**

Restaurant: An establishment other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals for not less than fifty (50) guests at one time, and where, in consideration of payment therefore, meals are regularly furnished at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and the principal part of which business is the serving of foods.

#### 362.390 **“On-Sale” licenses outside former patrol limits.**

(a) "On sale" licenses shall be issued for any premises outside the liquor patrol limits existing on January 1, 1975, only to restaurants, hotels, and clubs which qualify under the definitions for such establishments contained in section 360.10 of this Code of Ordinances, and which comply with Minneapolis City Charter, Chapter 4, Section 5 (first) and the additional restaurant requirements in subsection (b).

(b) As used in this section, "restaurant" shall mean an establishment:

- (1) Which is under the control of a single proprietor or manager.
- (2) Which has suitable kitchen facilities including a stove, refrigerator, work table, dishwashing and utensil-washing sink with sanitizing heater.
- (3) Which has facilities for seating not fewer than fifty (50) guests at one time at tables.
- (4) Which employs an adequate staff to provide the usual and suitable table service to its guests.
- (5) Where, in consideration of payment of money, meals are regularly served at tables to the general public.
- (6) Where the meal service consists of no less than four (4) entrees, complete with vegetable, salad, bread or rolls, or sandwiches or other principal food items as approved by the director of licenses and consumer services, and a choice of non-alcoholic beverages. Prepackaged complete meals shall not be included in the enumerated main entrees.
- (7) Where such meal service is provided through the normal operating hours.
- (8) In which the equipment and premises meet the provisions of all food and health codes.

**362.395. "On sale" licenses in proximity to residentially zoned property.**

(a) After October 14, 1983, "on sale" licenses for new premises, in which the main entrance is within five hundred (500) feet from residentially zoned property, shall be issued only for premises which qualify as a "restaurant" under subsection 362.390(b) and which comply with the following requirements:

(1) The establishment shall maintain, on a monthly basis, gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol in an amount of not less than sixty (60) per cent of its total gross revenue from the sale of food and beverages.

(2) No such premises shall contain a "bar area" except as permitted herein. A "bar area" shall mean any area not devoted exclusively to full restaurant service to customers seated at tables, in which consumption of alcoholic beverages is a substantial activity, except an area predominantly used as a holding area for customers waiting for restaurant seating. The size and capacity of such an area must bear a relationship to the size and capacity of the restaurant area which is consistent with its purpose as a waiting area. A waiting area of excessive size shall not be approved.

Chapter 4, Section 5, Subsection B. (**City Charter**)

If such liquor is to be consumed on the premises, then only if said area or district, together with such other areas or districts contiguous thereto wherein such consumption would be permitted by ordinance and by law, contains seven (7) or more acres, and then only if a substantial portion of the income to be derived from business conducted at such location is derived from the sale of food to be consumed on the premises and adequate facilities are provided therefor. The City Council shall, by ordinance, establish suitable and appropriate standards to determine whether a substantial amount of income is derived from the sale of food and to define adequate facilities for the consumption thereof on the premises.

**363.42. Wine license pursuant to Charter Amendment Number 144.**

(Restaurants located in certain zoning districts may obtain an on-sale wine license notwithstanding the seven (7) acre commercial zoning requirement of Chapter 4, Section 5 of the Minneapolis Charter...)

**Restaurant:** An establishment, under the control of a single proprietor or manager, having appropriate facilities for the preparation and serving of a variety of at least four complete meals, having not fewer than twenty-five (25) seats at tables and the application is for a Class E or Class D wine license, and where, in consideration of payment therefore, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and which has gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol in an amount of not less than seventy (70) percent of its total gross revenue from the sale of food and beverages.

(b) *Wine, intoxicating malt liquor, or 3.2 percent malt liquor.*

May only be served to patrons seated for regular dining that have ordered or have been served a meal.

(c) *Establishments licensed under this section may not have a bar or bar area.* Counter area existing as of the effective date of this section equipped for the service of food and drink to patrons in full view of and conducted as part of the service of the dining room shall not be considered a bar or bar area.

**548.30 Principal Uses for Commercial districts.**

**C1 Commercial District:** Neighborhood Commercial District... to provide a convenient shopping environment of small scale retail sales and commercial services that are compatible with adjacent residential uses. Permits: Restaurant, sit down, including the serving of alcoholic beverages, with limited entertainment

**C2 Commercial District:** Neighborhood Corridor Commercial District...to provide an environment of retail sales and commercial services that are larger in scale than allowed in the C1 District... Permits: Restaurant, sit down, including the serving of alcoholic beverages, with general entertainment

**C3 Commercial District:** Community Activity Center District... to provide for the development of...entertainment centers with neighborhood scale retail sales and services. Permits: Restaurant, sit down, including the serving of alcoholic beverages, with general entertainment. C3A permits applying for a Conditional Use Permit (CUP) for a Nightclub.

362.30. "On sale" licenses.

(a) "On sale" licenses may be issued only to hotels, clubs, restaurants and establishments for the sale of "on sale" liquor exclusively.

(b) **Class A.** A Class A "on sale" liquor license shall permit all Class B, C, D and E activities, and in addition thereto shall permit dancing and entertainment, provided that the dance floor area shall not exceed two thousand (2,000) square feet. This entertainment shall include stage shows, skits, vaudeville, theater, contests, dancing by employees or agents of the licensee, including patron participation in any of the aforementioned, and all other forms of entertainment carried on in conformity with the law.

(c) **Class B.** A Class B "on sale" liquor license shall permit all Class C, D, and E activities, and in addition thereto shall permit live music and singing without limitation as to the number of musicians or singers or the type of amplification. Dancing and singing by patrons of the establishment and the use of the services of a disc jockey are permitted. Stage shows, skits, vaudeville, theater, contests, dancing by employees or agents of the licensee, and patron participation in any of the aforementioned, are prohibited.

(d) **Class C.** Class C licenses shall be comprised of Class C-1 and Class C-2. A Class C-1 "on sale" liquor license shall permit all Class D and E activities and in addition shall permit amplified or nonamplified music by five (5) or fewer musicians and group singing participated in by patrons of the establishment. A Class C-2 "on sale" liquor license shall permit all Class D and E activities, and in addition thereto shall permit amplified or nonamplified music by three (3) or fewer musicians and group singing participated in by patrons of the establishment.

(e) **Class D.** A Class D "on sale" liquor license shall permit all Class E activities, and in addition thereto shall permit nonamplified music by one (1) musician, group singing participated in by patrons of the establishment, and ethnic dance, provided that such dance shall be performed only in conjunction with full-service restaurant dining for patrons seated at tables. "Ethnic dance" shall mean a traditional and authentic dance performance native to an ethnic cultural group, performed

by dancers attired with fully opaque covering over genitals, pubic area, buttocks, and female breasts below the top of the areola. The maximum number of ethnic dancers shall be the same as the maximum number of musicians permitted by each license class.

(f) **Class E.** A Class E "on sale" liquor license shall permit the "on sale" of liquor and "on sale" of three and two-tenths (3.2) beer and in addition thereto shall permit, as defined and when carried on in conformity with the ordinances of the city, the sale of food as a restaurant, and the use of radio, television, electronically reproduced music, karaoke and jukebox. All other devices producing musical sound or the use of a disc jockey are prohibited. No live entertainment or dancing shall be allowed.

520.160. **Definitions.**

**Entertainment, limited.** Entertainment limited to literary readings, story telling or live music by not more than three (3) persons, using non-amplified musical instruments, with no patron dancing.

**Entertainment, general.** Entertainment that does not meet one (1) or more of the definition requirements of limited entertainment.

**Nightclub.** A use engaged in the sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges and similar uses, or a use other than a sit down restaurant which provides general entertainment.

**Restaurant, sit down.** An establishment engaged in the preparation and retail sale of food and beverages, which is characterized by table service to customers and that is not a delicatessen restaurant, fast food restaurant or nightclub.

License Fees

On-Sale Liquor	
Class A	\$9,613
Class B	\$8,117
On-Sale Wine	
Class A	\$2,722
Class B	\$2,722

Staff Comments

The proposed ordinance amendment provides several benefits to the City of Minneapolis. The ordinance will:

- 1) Offer the opportunity for small wine venues to offer amplified and non-amplified music.
- 2) Increase the consistency of the liquor code as related to the entertainment requirements for wine and liquor licenses.
- 3) Remove current unintended incentive to seek a liquor license instead of a wine license.

The existence of other liquor and zoning ordinances provides regulation that helps to minimize the potential for negative impact on adjacent uses. However, one area of significant concern remains. The ordinance amendment may increase the number of Class A and B liquor licenses in C2 zoning districts. The lower fees for a Class A or B Wine License, as compared to a Class A or B Liquor License, changes the financial considerations in obtaining a Class A or B license. C2 zoning represents areas classified as neighborhood corridor commercial. Class A and B licenses permit live music, dancing, and singing without limitation as to the number of performers or type of amplification. These types of venues generally draw from an area that is greater than what a C2 zoning would represent.

Staff recommends:

- 1) Evaluation of the appropriate level of entertainment class for C2 zoning districts for both liquor and wine. Should Class A and B licenses be restricted to C3 or higher zoning?
- 2) Evaluation, consolidation, and improvement in the defining of restaurant and entertainment in the liquor and/or zoning code(s). The sheer number of different definitions creates confusion and potential for misinterpretation. In addition, compliance issues have raised questions as to the definitiveness of the definition of restaurant. What are the characteristics that of a sit down restaurant?