

**CHAPTER 5
SUB-ANALYSIS**

ALCOHOLIC BEVERAGES LICENSING AND REGULATION

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CHAPTER 5

ALCOHOLIC BEVERAGES LICENSING AND REGULATION

SECTION 5.01. DEFINITIONS. As used in this Chapter, unless otherwise stated in specific sections, the following words and terms shall have the meanings stated:

1. "Alcoholic Beverage" means any beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine or liquor as defined in this Section.
2. "Applicant" means any person making an application for a license under this Chapter.
3. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
4. "Beer" means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein.)
5. "Brewer" means a person who manufactures beer for sale.
6. "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 fifty 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; (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. Such club or congressionally chartered veterans' organization must have been in existence for at least three years.
7. "Commissioner" means the Minnesota Commissioner of Public Safety.
8. "Exclusive Liquor Store" means an establishment used exclusively for the sale of liquor except for the incidental sale of ice, tobacco, beer, beverages for mixing with liquor, and soft drinks may also be sold and the establishment may offer recorded or live entertainment and make available coin-operated amusement devices.
9. "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has: (1) a resident proprietor or manager; (2) a dining room serving the general public at tables and having facilities for seating at least thirty guests at one time; and (3) at least ten guest rooms.
10. "License" means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.

11. "Licensee" means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.
12. "License Fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.
13. "Licensed Premises" means the premises described in the issued license.
14. "Liquor" means ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)
15. "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.
16. "Manufacturer" means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.
17. "Minor" means any natural person who either (1) has not attained the age of 21 years. (Amended 9/27/11)
18. "Off-Sale" means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.
19. "On-Sale" means the sale of alcoholic beverages for consumption on the licensed premises only.
20. "Package" and "Original Package" mean any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.
21. "Restaurant" means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for at least thirty guests.
22. "Sale", "Sell" and "Sold" mean all barter and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.
23. "Wholesaler" means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.
24. "Wine" means a beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits, or honey, and also carbonated wine, wine made from condensed grape must, wine made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than seven percent nor more than fourteen percent alcohol by volume. (This definition includes so-called "wine coolers" with the alcoholic content limits stated herein.)

**SEC. 5.02. APPLICATIONS AND LICENSES UNDER THIS CHAPTER
PROCEDURE AND ADMINISTRATION.**

Subd. 1. Application. All applications shall be made at the office of the City Clerk upon forms prescribed by the City, or if by the Commissioner, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. All new applicants or re-issued license applicants must submit with the Application for a Liquor License a copy of the Certificate of Assumed name and the Articles of Incorporation showing Corporation Name. Furthermore all applicants will be required to submit a copy of Certificate of Work Compensation Insurance for any new license, transfer of license or renewal of license.

(Amended 9/27/11)

Subd. 2. False Statements. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part thereof.

Subd. 3. Application and Investigation Fees. At the time the initial or transfer application is made, an applicant for a license under this Chapter shall accompany such application with payment of a \$300 investigation fee, in addition to the License Application Fee, in which investigation fee is not refundable to the applicant, to cover the cost of the City in processing the application and the investigation of the applicant. No such fee shall be required of an applicant for a temporary beer license.

(Amended 9/27/11)

Subd. 4. Action.

A. Granting. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the non-refundable investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

(Amended 9/27/11)

B. Issuing. If an application is approved, the City Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the City or the Commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. Licenses shall be valid only at one location and on the premises therein described. If licensed liquor establishment closes during the license year, the license shall remain with the liquor establishment through the end of the license period or for a period of no less than six months from the date of closing. License fees will not be refunded to any liquor establishment that closes during the license year, regardless of the reason for the closure.

(Amended 9/27/11)

C. Transfer. A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Subparagraph. All new applicants or re-issued license applicants must submit with the Application for a Liquor License a copy of the Certificate of Assumed name and the Articles of Incorporation showing Corporation Name. Furthermore all applicants will be required to submit a copy of Certificate of Work Compensation Insurance for any new license, transfer of license or renewal of license.

(Amended 9/27/11)

D. Refusal and Termination. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

E. Public Interest. No license under this Chapter may be issued, transferred, or renewed if the results of any investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest.

F. Revocation or Suspension. The Council shall revoke or suspend, for a period not to exceed ninety days, a license granted under the provisions of this Chapter for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. Fines shall be administered as follows:

- A. A First Violation of the Liquor Code shall carry a \$250.00 fine.
- B. A Second Violation of the Liquor Code shall carry a \$500.00 fine.
- C. A Third Violation of the Liquor Code shall carry a \$1000.00 fine.
- D. A Fourth Violation of the Liquor Code shall carry a \$2000.00 fine, a 90-day suspension of the violator's liquor license or permanent revocation of license.
- E. Any license violations that occur within a three-year period shall be counted in the total violation tabulation.

(Amended 9/27/11)

The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if such revocation is mandatory by Statute. If it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than fifteen nor more than thirty days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute, the following shall also be grounds for such action: (1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

G. Corporate Applicants and Licensees. A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Clerk in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

Subd. 5. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the City Clerk without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 6. Posting. All licensees shall conspicuously post their licenses in their places of business.

Subd. 7. Resident Manager or Agent. Before a license is issued under this Chapter to an individual, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be a resident of the City or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

(Amended 9/27/11)

Subd. 8. Persons Disqualified.

A. No license under this Chapter may be issued to: (1) a person not a citizen of the United States or a resident alien; (2) a person under twenty-one years of age; (3) a person who within five years of the license application has been convicted of a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; (4) a person who has had an alcoholic beverage license revoked within five years of the license application in any of the fifty states, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporate 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; or, (5) a person not of good moral character and repute to include, but not limited to, no history of bad checks and no gross misdemeanors.

(Amended 9/27/11)

B. No person holding a license from the Commissioner as a manufacturer, brewer or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the City.

SEC. 5.03. RENEWAL LICENSE APPLICATIONS. Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. All new applicants or re-issued license applicants must submit with the Application for a Liquor License a copy of the Certificate of Assumed name and the Articles of Incorporation showing Corporation Name. Furthermore all applicants will be required to submit a copy of Certificate of Work Compensation Insurance for any new license, transfer of license or renewal of license.

(Amended 9/27/11)

SEC. 5.04. DELINQUENT TAXES AND CHARGES.

(Deleted 1/28/03)

SEC. 5.05. CONDITIONAL LICENSES. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such special conditions and restrictions, in addition to those stated in this Chapter, upon any license as it, in its discretion, may deem reasonable and justified.

SEC. 5.06. PREMISES LICENSED. Unless expressly stated therein, a license issued under the provisions of this Chapter shall be valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building or structure.

SEC. 5.07. UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, an alcoholic beverage on licensed premises after the hour when a sale thereof can legally be made.

Subd. 2. Closing. It is unlawful for any person, other than a licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this Chapter more than twenty (20) minutes after the legal time for making licensed sales.

SEC. 5.08. CONDUCT ON LICENSED PREMISES. Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

SEC. 5.09. SALE BY EMPLOYEE. Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

SEC. 5.10. LICENSE CONDITION AND UNLAWFUL ACT.

Subd. 1. All premises licensed under this Chapter shall at all times be open to inspection by any police officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.

Subd. 2. It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making such inspection.

SEC. 5.11. LICENSE FEES - FIXING AND REFUNDMENT.

Subd. 1. Fixing Fees. Except as otherwise specifically provided, all fees provided for in this Chapter, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may, from time-to-time, be amended by the Council by resolution. A public hearing shall be conducted for any proposed increase of Liquor License fees. Notice of the proposed increase must be mailed to all affected licensees at least 30 days before the date set for the hearing. A copy of the resolution shall be kept on file in the office of the City Clerk and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may categorize and classify, provided, that such categorization and classification shall be included in the resolution authorized by this Section.

(Amended 9/27/11)

Subd. 2. Refundment. A pro-rata share of an annual license fee for a license to sell liquor or beer, either on-sale or off-sale, shall be refunded to the licensee, or to his estate, if: (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; or, (3) the business ceases to be lawful for a reason other than a license revocation or suspension.

SEC. 5.12. FINANCIAL RESPONSIBILITY OF LICENSEES.

Subd. 1. Proof. No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility and good reputation to include no history of bad checks and no gross misdemeanors, imposed by Statute, by filing with the City:

A. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) \$50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one ACTS occurrence, and (2) \$50,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000.00 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of \$300,000.00 may be included in the insurance coverage; or,

B. As Per MN Statute 340A.409, Certification of Insurance does not apply to licensees who by affidavit establish that:

- (1) They are on-sale 3.2 percent malt liquor licensees with sales of less than \$25,000 of 3.2 percent malt liquor for the preceding year;
- (2) They are off-sale 3.2 percent malt liquor licensees with sales of less than \$50,000 of 3.2 percent malt liquor for the preceding year;
- (3) They are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year;
- (4) They are holders of temporary wine licenses issued under law; or

- (5) They are wholesalers who donate wine to an organization for a wine tasting conducted under MN Statute 340A.418 or 340A.419

(Amended 9/27/11)

Subd. 2. Documents Submitted to Commissioner. All proofs of financial responsibility and exemption affidavits filed with the City under this Section shall be submitted by the City to the Commissioner.

SEC. 5.13. INSURANCE CERTIFICATE REQUIREMENTS. Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Clerk a certificate of insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be cancelled or terminated without thirty days' written notice served upon the City Clerk. Cancellation or termination of such coverage shall be grounds for license revocation. The term "certificate of insurance" as used in this Section means the contract between carrier and insured embodying all the terms of their agreement as distinguished from a writing which simply outlines the coverage. As Per MN Statute 340A.409, Certification of Insurance does not apply to licensees who by affidavit establish that:

- (1) They are on-sale 3.2 percent malt liquor licensees with sales of less than \$25,000 of 3.2 percent malt liquor for the preceding year;
- (2) They are off-sale 3.2 percent malt liquor licensees with sales of less than \$50,000 of 3.2 percent malt liquor for the preceding year;
- (3) They are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year;
- (4) They are holders of temporary wine licenses issued under law; or
- (5) They are wholesalers who donate wine to an organization for a wine tasting conducted under MN Statute 340A.418 or 340A.419

(Amended 9/27/11)

SEC. 5.14. MINORS AS DEFINED IN SECTION 5.01. – UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any:

A. Licensee to permit any minor to consume alcoholic beverages on licensed premises.

B. Minor to consume alcoholic beverages except in the household of the Minor's parent or guardian, and then only with the consent of such parent or guardian.

Subd. 2. Purchasing. It is unlawful for any person:

A. To sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.

B. Minor to purchase or attempt to purchase any alcoholic beverage.

C. To induce a minor to purchase or procure any alcoholic beverage.

Subd. 3. Possession. It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his parent or guardian.

Subd. 4. Entering Licensed Premises. It is unlawful for any minor, as defined in this Chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of eighteen years to enter licensed premises for the following purposes: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of eighteen years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

Subd. 5. Misrepresentation of Age. It is unlawful for a minor to misrepresent his age for the purpose of purchasing an alcoholic beverage.

Subd. 6. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license, a Minnesota identification card, or, in the case of a foreign national, by a valid passport.

SEC. 5.15. GAMBLING PROHIBITED. It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation of any slot machine, dice, or any gambling device or apparatus on licensed premises, or in any room adjoining the licensed premises, or permit gambling therein except such as may be permitted by statute, and subject to such conditions as the Council shall from time to time adopt by resolution.

SEC. 5.16. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS. It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, or (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. In granting such permission, the Council shall designate the area and time for which such permission is granted. Any license holder shall be responsible for the conduct of, and security for, such consumption, and the Council may state further regulations and conditions for such granting. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

SEC. 5.17. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS. It is unlawful for any person to introduce upon, or have in his possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell beer, and for any person to possess beer as a result of a purchase from those organizations holding temporary licenses.

SEC. 5.18. POSSESSION OF A WEAPON ON LICENSED PREMISES. It is unlawful for any person other than the licensee, the licensee's employee, or a local law enforcement officer, to have in his possession any throwing star or nun chuck (as those terms are defined in City Code Chapter 10), firearm, or knife with a blade exceeding three (3) inches in length.

Source: City Code

Effective Date: 3-1-88

(Sections 5.19 through 5.29, inclusive, reserved for future expansion.)

SEC. 5.30. BEER LICENSE REQUIRED. It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the City. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale license, and may sell beer on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale license, and may sell beer off-sale without an additional license.

SEC. 5.31. TEMPORARY BEER LICENSE.

Subd. 1. Applicant. A club or charitable, religious, or non-profit organization shall qualify for a temporary on-sale beer license. Such license may authorize the sale of beer in any school or school buildings.

Subd. 2. Conditions.

A. An application for a temporary license shall state the exact dates and place of proposed temporary sale.

B. No applicant shall qualify for a temporary license for more than a total of seven (7) days in any calendar year.

C. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000.00 for injury to any one person and \$100,000.00 for injury to more than one person, and \$10,000.00 for property damage, naming the City as an insured during the license period. Such license shall be issued only on the condition that the applicant will not sell in excess of \$10,000.00 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

D. An applicant for a license under this Section shall be duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota and having its registered office and principal place of activity within the City.

SEC. 5.32. HOURS AND DAYS OF BEER SALES. No sale of beer shall be made between the hours of 2:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday, inclusive. Neither shall any beer sale be made on any Sunday between the hours of 2:00 o'clock A.M. and 10:00 o'clock A.M.

(Amended 3/28/00)

(Amended 8/26/03)

SEC. 5.33. PREMISES ELIGIBLE FOR ON-SALE BEER LICENSES. No on-sale beer license may be issued unless the licensed premises:

Subd. 1. Are situated on Chestnut Street or within one block north or south of Chestnut Street; or,

Subd. 2. Are occupied by a bona fide club in existence in the City for at least the ten preceding consecutive years; or,

Subd. 3. Are occupied for recreational purposes as defined by the City Council.
(Amended 12/6/94)

Subd. 4. Are occupied by an establishment primarily engaged in the preparation and serving of food to the public, provided, that as to such establishment:

- A. It-is a permitted use in the zoning district in which it is situated; and,
- B. There is no bar or bar area therein where beer is sold and served; and,
- C. No beer is sold or served when it is not open for food service.

Source: City Code
Effective Date: 3-1-88

(Sections 5.34 through 5.39, inclusive, reserved for future expansion.)

SEC. 5.40. LIQUOR LICENSE REQUIRED. It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply (1) to such potable liquors as are intended for therapeutic purposes and not as a beverage, (2) to industrial alcohol and its compounds not prepared or used for beverage purposes, (3) to wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee, (4) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, or, (5) to sales by wholesalers to persons holding liquor licenses from the City. The City may issue annual on-sale liquor licenses only to the following: (1) hotels; (2) restaurants; (3) clubs or congressionally chartered veterans' organizations, provided that the organization has been in existence for at least three years and liquor sales will be made only to members and bona fide guests; and, (4) exclusive liquor stores. The City may issue annual off-sale liquor licenses to exclusive liquor stores and drug stores. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale license, and may sell beer on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale license, and may sell beer off-sale without an additional license.

SEC. 5.41. SUNDAY SALES. The electorate of the City having heretofore authorized the same at a general or special election, a Sunday on-sale liquor license may be issued to hotels, restaurants, or clubs, as defined in this Chapter, which have on-sale licenses and which also have facilities for serving not less than thirty guests at one time. The hours of such sales shall be from 10:00 o'clock A.M. Sunday to 1:00 o'clock A.M. Monday in conjunction with the serving of food, provided that the licensee establishment is in conformance with the Minnesota Clean Indoor Air Act, and said establishment has been granted by the Minnesota Department of Health. a current "Small Establishment License" in order to prepare and serve food.

(Amended 3/28/00)

(Amended 1/24/12)

SEC. 5.42. SPORTS, CONVENTION OR CULTURAL FACILITIES LICENSE.

The Council may authorize any holder of an on-sale liquor license issued by the City or by an adjacent municipality to sell liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the City, or instrumentality thereof having independent policy-making and appropriating authority and located within the City. The licensee must be engaged to sell liquor at such an event by the person or organization permitted to use the premises, and may sell liquor only to persons attending the event. The licensee shall not sell liquor to any person attending or participating in any amateur athletic event. Such sales may be limited to designated areas of the facility. All such sales shall be subject to all laws relating thereto.

SEC. 5.43. TEMPORARY LIQUOR LICENSE.

Subd. 1. License Authorized. Notwithstanding any provision of the City Code to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. Such license may provide that the licensee may contract with the holder of a full-year onsale license, issued by the City, for liquor catering services.

Subd. 2. Applicant. The applicant for a license under this Section must be a club or charitable, religious, or other nonprofit organization in existence for at least three years.

Subd. 3. Terms and Conditions of License.

A. No license is valid until approved by the Commissioner.

B. No license shall be issued for more than three consecutive days.

C. All licenses and licensees are subject to all provisions of statutes and the City Code relating to liquor sale and licensing except those relating to financial responsibility and insurance, and except those which by their nature are not applicable.

D. Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

E. A municipality may not issue more than three four-day, four three-day, six two-day, or 12 one-day temporary licenses, in any combination not to exceed 12 days per year, under MN Statute 340A.404, subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within a 12-month period.

F. A municipality may not issue more than one temporary license under section 340A.404, subdivision 10, for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

G. A municipality that issues separate temporary wine and liquor licenses may separately apply the limitations contained in paragraphs (a) and (b) to the issuance of such licenses to any one organization or registered political committee, or for any one location.
(Amended 9/27/11)

Subd. 4. Insurance Required. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$100,000.00 for injury to any one person, \$300,000.00 for injury to more than one person, and \$20,000.00 for property damage, naming the City as an insured during the license period.

SEC. 5.44. HOURS AND DAYS OF LIQUOR SALES. No sale of liquor shall be made after 2:00 o'clock A.M. on Sunday, nor until 8:00 A.M. on Monday. No on-sale shall be made between the hours of 2:00 A.M. and 8:00 A.M. on any weekday. No off-sale shall be made before 8:00 o'clock A.M. or after 10:00 o'clock P.M. on any weekday. No off-sale shall be made on Thanksgiving or Christmas Day or after 8:00 P.M. on Christmas Eve. Before an on-sale liquor license holder can be open until 2:00 A.M., he/she must obtain the appropriate license endorsement from the State of Minnesota. (NOTE: This Section does not prohibit sales during hours when on-sale is permitted on Sunday as stated in the Section of this Chapter entitled "Sunday Sales".)

(Amended 1/26/99)

(Amended 8/26/03)

Source: City Code

Effective Date: 3-1-88

(Sections 5.45 through 5.49, inclusive, reserved for future expansion.)

SEC. 5.50. ON-SALE WINE LICENSE REQUIRED. It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of wine on-sale, as part of a-commercial transaction, without a license therefor from the City. This Section shall not apply (1) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (2) to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the City, (3) to sales by wholesalers to persons holding on-sale wine licenses from the City, or (4) to sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted, and (5) that an authorized holder of an on-sale wine license issued pursuant to Section 340A.404, Subd. 5(a) who is also licensed to sell 3.2 malt liquors at on-sale pursuant to Section 340A.411 and whose gross receipts are at least sixty percent (60%) attributable to the sale of food, shall be authorized to sell intoxicating malt liquors at on-sale without an additional license. The licenseholder shall be required to have liquor liability insurance.

(Amended 11/13/01)

SEC. 5.51. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSES. No on-sale of wine shall be made between 1:00 o'clock A.M. and 12:00 o'clock noon on Sunday, nor between 12:00 o'clock midnight and until 8:00 o'clock A.M. on Monday, nor between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, nor between the hours of 8:00 o'clock P.M. on December 24 and 8:00 o'clock A.M. On December 25.

Source: City Code
Effective Date: 3-1-88

(Sections 5.52 through 5.59, inclusive, reserved for future expansion.)

SEC. 5.60. LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS AND REGULATIONS.

Subd. 1. Prior to issuance of any license the applicant shall file with the City Clerk a bond with a corporate surety, cash, or United States government bonds in the sum of \$3,000.00 for an on-sale liquor or wine license and \$1,000.00 for an offsale liquor license. A bond filed under this Subdivision must be conditional on the licensee obeying all laws governing the business and paying all taxes, fees, penalties, and other charges, and must provide that the bond is forfeited to the City issuing the license on a violation of law. The Commissioner must approve all bonds filed by applicants for an off-sale license.

Subd. 2. Limitations on Issuance of Licenses to One Person or Place.

A. No off-sale liquor license may be issued to any one person for more than one place in the City. Any person holding an interest in two or more such licenses in the City shall be deemed to hold more than one license.

B. For the purpose of this Subdivision, the term "interest": (1) includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail business; and, (2) does not include loans; rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or ten percent or less interest in any other corporation holding a license.

C. In determining whether an "interest" exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this Subdivision must be considered.

Subd. 3. Licenses in Connection With Premises of Another. A liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this Chapter.

Subd. 4. Off-Sale Licenses Where Beer is Sold. An offsale liquor license may not be issued to a place where beer is sold for consumption on the premises.

Subd. 5. Drug Stores. No liquor license may be issued to a person operating a drug store unless the person has operated it for at least two years or has purchased a drug store that has been in continuous operation for two or more years.

Subd. 6. Employment of Minors. No person under eighteen (18) years of age may serve or sell liquor in a liquor establishment.

Subd. 7. On-sale wine licenses shall be granted only to restaurants as defined in this Chapter. Provided, however, for purposes of this Section, such restaurant shall have appropriate facilities for seating not less than twenty-five guests at one time.

Subd. 8. Premises Eligible for Annual On-Sale Liquor Licenses. No annual on-sale liquor license may be issued or renewed unless the licensed premises:

A. Are situated on, and have an entrance from, Chestnut Street; or,

B. Are occupied by an establishment primarily engaged in the preparation and serving of food to the public, provided, that as to such establishment:

1. (Deleted by amendment adopted 12/17/90)

2. (Deleted by amendment adopted 12/17/90)

3. Any bar or lounge portion is separated from the dining portion by an opaque partition, has a floor area, and seating capacity, no more than one-third that of the dining portion; and,

4. Any advertising or identifying sign shall not emphasize liquor service by size, shape, color, wording or lighting; and,

5. Located in the commercial zoning district; and,

6. Buildings conform to the architectural plan of the surrounding area, and all building and zoning codes and laws; and,

7. Private off-street parking for at least 50 automobiles is provided adjacent to the dining area or in an area which does not create a safety hazard; and,

8. Food service is available at all times when liquor is sold; or,

C. Are occupied by a club, provided that as to such club:

1. It is located in a commercial zoning district; and,

2. Any building is constructed of materials, and in compliance with, all building and zoning laws and codes of the City; and,

3. Any advertising or identifying sign shall not emphasize liquor service by size, shape, color, wording or lighting; and,

4. Private off-street parking is provided to accommodate not less than 50 automobiles; or,

D. Are occupied by the establishment of a licensee whose license was authorized by a special act of the Legislature and issuance of such license exceeds the number authorized by the general statutes applicable to all cities of the population of the City, provided, that as to such establishment:

1. The principal business is the preparation and serving of food to the public and sale of liquor is incidental thereto; and,

2. The public dining room has a floor size of at least 1,500 square feet in area with seating accommodations for at least 100 persons; and,

3. Any bar or lounge portion is separated from the dining portion by an opaque partition, has a floor area, and seating capacity, no more than one-third that of the dining portion; and,

4. Any advertising or identifying sign shall not emphasize liquor service by size, shape, color, wording or lighting.

Subd. 9. Premises Eligible for Sunday On-Sale Liquor Licenses and Regulations. No Sunday on-sale liquor license may be issued or renewed unless the licensed premises complies with Minnesota Statutes 340A.504, Subd. 3.

(Amended 6/13/06)

Subd. 10. The Council may issue liquor licenses not to exceed the following numbers: (1) eleven off-sale, (2) twenty one on sale liquor licenses with nine to exclusive liquor stores, one to a hotel, one to the Golf Course, and the remainder to restaurants.

(Amended 9/27/11)

Source: City Code

Effective Date: 3-1-88

(Sections 5.61 through 5.74, inclusive, reserved for future expansion.)

SEC. 5.75. CONSUMPTION AND DISPLAY.

Subd. 1. Consumption and Display License Required. It is unlawful for any business establishment or club, not holding an onsale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to such members, without a license therefor from the City.

Subd. 2. Consumption and Display License Fee. The annual consumption and display license fee shall not exceed \$300.00.

Subd. 3. Consumption and Display Restrictions and Regulations.

A. Eligible Licensees. If the applicant is otherwise eligible, licenses may be issued only to (1) persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this Chapter or other law relating to the sale or furnishing of alcoholic beverages; (2) a restaurant; (3) a hotel; (4) a beer licensee; (5) a resort as defined by statute; or, (6) a club or an unincorporated club otherwise meeting the definition of a club, provided, that no license may be issued to a club holding an on-sale liquor license.

B. Unlawful Act. It is unlawful to sell liquor on *unlicensed* premises.
(Amended 9/27/11)

C. License Expiration. In order to coordinate the expiration of a consumption and display license with a State permit, all licenses shall expire at the same time as the State licensing period.
(Amended 9/27/11)

D. State Permit Required. Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.

E. Lockers. A club to which a license is issued under this Section may allow members to bring and keep a personal supply of liquor in lockers on the club's premises. All bottles kept on the premises must have attached labels signed by the member. No minor may keep a supply of liquor on club premises.

F. Hours and Days. No licensee may permit a person to consume or display liquor, and no person may consume or display liquor, between 1:00 o'clock A.M. and 12:00 o'clock noon on Sundays, and between 1:00 o'clock A.M. and 8:00 o'clock A.M. on Monday through Saturday.

SEC. 5.76. CONSUMPTION AND DISPLAY - ONE DAY LICENSE.

Subd. 1. License Required. Any non-profit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it, shall first obtain a license therefor from the City. It is unlawful for any such organization to fail to obtain such license.

Subd. 2. Term. The term of such license shall be one day only.

Subd. 3. Limitation on Number. The City shall issue no more than ten licenses in any calendar year.

Subd. 4. License Fee. The fee for such one-day license is \$25.00.

Subd. 5. Approval. In addition to Council approval, such license must be approved by the Commissioner of Public Safety.

Source: City Code

Effective Date: 3-1-88

(Sections 5.77 through 5.89, inclusive, reserved for future expansion.)

SEC. 5.90. NUDITY. The following acts or conduct on premises holding an on-sale liquor or on-sale beer license are deemed contrary to public welfare and morals and, therefore, no on-sale license shall be held at any premises where such conduct or acts are permitted.

Subd. 1. To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

Subd. 2. To employ or use the services of any hostess or entertainer while such hostess or entertainer is unclothed or in such attire, costume or clothing as described in Subdivision 1 above.

Subd. 3. To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

Subd. 4. To permit any employee or person to wear or use any device or covering exposed to view, which stimulates the breast, genitals, anus, pubic hair or any portion thereof.

Subd. 5. To permit any person to perform acts of or acts which stimulate:

A. With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law.

B. Masturbation or bestiality.

C. With or upon another person the touching, caressing or fondling of the breast, buttocks, anus or genitals.

Subd. 6. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

Subd. 7. To permit the showing of film, still pictures, electronic reproduction or other visual reproduction, or other reproductions depicting:

A. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts which are prohibited by law.

B. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

C. Scenes wherein a person displays the vulva or the anus or the genitals.

D. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

Source: Ordinance No. 32, Section 13

Effective Date: 6-13-81

(Sections 5.91 through 5.98, inclusive, reserved for future expansion.)

SEC. 5.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 3-1-88