

SUB-ANALYSIS

Title

CHAPTER 5

ALCOHOLIC BEVERAGES LICENSING AND REGULATION

Section	
5.01	Definitions
5.02	Applications and Licenses Under This Chapter - Procedure and Administration
	Subd. 1 Application
	Subd. 2 False Statements
	Subd. 3 Application and Investigation Fees
	Subd. 4 Action
	Subd. 5 Duplicate Licenses
	Subd. 6 Posting
	Subd. 7 Resident Manager or Agent
	Subd. 8 Persons Disqualified
5.03	Renewal License Applications
5.04	Delinquent Taxes and Charges
5.05	Conditional Licenses
5.06	Premises Licensed
5.07	Unlawful Acts
	Subd. 1 Consumption
	Subd. 2 Closing
5.08	Conduct on Licensed Premises
5.09	Sale by Employee
5.10	License Condition and Unlawful Act
	Subd. 1
	Subd. 2
5.11	License Fees - Fixing and Refundment
	Subd. 1 Fixing Fees
	Subd. 2 Refundment
5.12	License Fee Increases, Notice and Hearing
5.13	Financial Responsibility of Licensees
	Subd. 1 Proof
	Subd. 2 Exception
	Subd. 3 Documents Submitted to Commissioner
5.14	Insurance Certificate Requirements
5.15	Minors as Defined in Section 5.01 – Unlawful Acts
	Subd. 1 Consumption
	Subd. 2 Purchasing
	Subd. 3 Possession
	Subd. 4 Entering Licensed Premises
	Subd. 5 Misrepresentation of Age
	Subd. 6 Proof of Age
5.16	Gambling Prohibited
5.17	Consumption and Possession of Alcoholic Beverages on Streets, Public Property, and Private Parking Lots to Which the Public Has Access
5.18	Alcoholic Beverages in Certain Buildings and Grounds

5.19	Alcoholic Beverages - Certain Unlawful Acts
5.20	Brew-on-Premises Store, Unlawful Acts
5.21-5.29	Reserved
5.30	Beer License Required
5.31	Temporary Beer License
	Subd. 1 Applicant
	Subd. 2 Conditions
5.32	Hours and Days of Beer Sales
5.33-5.39	Reserved
5.40	Liquor License Required
	Subd. 1 Unlicensed Sales Prohibited
	Subd. 2 Number of ON-Sale and Off-Sale Licenses Established
5.40.1	Temporary Liquor License
	Subd. 1 License Authorized
	Subd. 2 Applicant
	Subd. 3 Terms and Conditions of License
5.41	Sunday Sales
	Subd. 1 License Required
	Subd. 2 Hours of Sale
	Subd. 3 Unlawful Acts
5.42	Hours and Days of Liquor Sales
5.43	On-Sale Wine License Required
5.43.1	On-Sale Wine License Not Required for Bed and Breakfast Facility
5.44	Hours and Days of Sales by On-Sale Wine Licensees
5.45	Beer, Liquor and On-Sale Wine License Restrictions, Regulations and Unlawful Acts
	Subd. 1 Licenses in Connection with Premises of Another
	Subd. 2 Employment of Minors
	Subd. 3 Premises Eligible
	Subd. 4 Professional Dancer License
5.46-5.59	Reserved
5.60	Municipal Dispensary
5.61-5.69	Reserved
5.70	Nudity or Obscenity Prohibited
	Subd. 1 Definitions
	Subd. 2 Unlawful Act
	Subd. 3 Prosecution
5.71-5.98	Reserved
5.99	Violation a Misdemeanor

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, and 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. (7-1-90)

3.1. **“Bed and Breakfast Facility”** (when license is not required) means a place of lodging that (1) provides not more than eight rooms for rent to no more than 20 guests at a time, (2) is located on the same property as the owner’s personal residence, (3) provides no meals, other than breakfast served to persons who rent rooms, and (4) was originally built and occupied as, or was converted to, a single family residence prior to being used as a place of lodging. (6-25-98)

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.) (7-1-90)

4.1. **“Brew on Premises Store”** means a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. (6-25-98)

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 50 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. (7-1-90)

7.1. **“Home Brewing Equipment”** means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten gallons or less and supplies and ingredients for home manufacture of malt liquor.

8. **“Hotel”** means an establishment where food and lodging are regularly furnished to transients and which has: (1) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and (2) at least ten guest rooms. (6-25-98)

9. **“License”** means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.

10. **“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.

11. **“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. (7-1-90)

12. **“Licensed Premises”** means the space or structure described in the issued license. In the case of a restaurant or a club licensed for on-sales of alcoholic beverages and located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated. (6-25-98)

13. **“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.)

13.1. **“Liquor Store”** means an establishment, other than a hotel, restaurant, club or bowling alley, used primarily for the sale of alcoholic beverages and other items authorized in Minnesota Statutes, Section 340A.412, subdivision 14. (Added, Ord. No. 82, 2/21/06)

14. **“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.

15. **“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.

16. **“Minor”** means any natural person who has not attained the age of 21 years.

17. **“Off-Sale”** means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

18. **“On-Sale”** means the sale of alcoholic beverages for consumption on the licensed premises only.

19. **“Package” and “Original Package”** means any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

Source: (7-1-90)

19.1. **“Premises Dance License”** means a license issued to a holder of a beer, liquor or wine on-sale license permitting entertainment provided by a licensed professional dancer or dancers.

20. **“Restaurant”** means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for 50 guests. (6-25-98)

21. **“Sale”, “Sell” and “Sold”** means all barter and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.

22. **“Wholesaler”** means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse. (7-1-90)

24. **“Wine”** means the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake. (This definition includes “wine coolers” with the alcoholic content limits stated herein.) For purposes of on-sale wine licenses, “wine” may contain up to 14% alcohol by volume for consumption with the sale of food. For all other purposes, “wine” is a product containing not less than one-half of one percent nor more than 24% alcohol by volume for non-industrial use. (6-25-98)

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 Administrator 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. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under Minnesota Statutes, Section 340A.802.

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 application is made, an applicant for a license under this Chapter shall accompany such application with payment of a fee to be considered an application and investigation fee, 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.

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 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.

B. Issuing. If an application is approved, the City Administrator 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. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

C. Transfer. No license shall be transferable between persons or to a different location. Any change in individual ownership, incorporation, or substitution of partners is a transfer. It is unlawful to make any transfer in violation of this Subparagraph.

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. (7-1-90)

F. Revocation or Suspension. For any license granted under the provisions of this Chapter, the Council may revoke, suspend for a period not to exceed 60 days, impose a civil fine not to exceed \$2,000.00, or any combination of these sanctions, 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. 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 15 nor more than 30 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. (6-25-98)

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 Administrator 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 30 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 Administrator without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee adopted by resolution of the Council 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 who is a non-resident of the City, to more than one individual whether or not they are residents of the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the City 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. (7-1-90)

Subd. 8. Persons Disqualified.

A. No license under this Chapter may be issued, or renewed, to: (1) a person who within five years of the license application has been convicted of any felony or 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; (2) a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than 5% 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; (3) a person under the age of 21 years; or, (4) a person not of good moral character and repute.

B. No person holding a license from the Commissioner as a manufacturer, brewer (except as provided by statute), wholesaler or importer, may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the City.
(Ordinance No. 36, Second Series, 6-25-98)

SEC. 5.03. RENEWAL LICENSE APPLICATIONS. Applications for renewal of all licenses under this Chapter shall be made at least 60 days prior to the date of expiration of the license, and shall contain such information as is required by the City. Any applicant making application during such 60-day period shall pay such additional amount as may be fixed by the Council.

SEC. 5.04. DELINQUENT TAXES AND CHARGES. No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the City, are owed and are delinquent and unpaid.

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. (7-1-90)

SEC. 5.06. PREMISES LICENSED. A license issued under the provisions of this Chapter shall be valid only for the premises described in the license, and all transactions relating to a sale under such license must take place within such space or structure.
(Ordinance No. 36, Second Series, 6-25-98)

SEC. 5.07. UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than 30 minutes 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 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

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 for licenses 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 copy of the resolution shall be kept on file in the office of the City Administrator 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.

Subd. 2. Refundment. A pro-rata share of an annual license fee for a license to sell alcoholic beverages, 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. LICENSE FEE INCREASES, NOTICE AND HEARING. No license fee for on-sale beer, on-sale liquor (including clubs), or on-sale wine, shall be increased except after notice and hearing thereon. Notice of the proposed increase shall be mailed at least 30 days before the hearing date to all then-current licensees and persons, if any, whose applications for such licenses are then pending before the Council.

SEC. 5.13. 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, 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 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. A bond of a surety company with minimum coverages as provided in Subparagraph A of this Subdivision; or,

C. A certificate of the State Treasurer that the licensee has deposited with him \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00. (7-1-90)

Subd. 2. Exception. This Section does not apply to on-sale beer licensees with sales of beer of less than \$25,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$50,000.00 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$25,000.00 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this Subdivision.
(Ordinance No. 36, Second Series, 6-25-98)

Subd. 3. 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. 5.14. INSURANCE CERTIFICATE REQUIREMENTS. Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Administrator 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 30 days' written notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

SEC. 5.15. 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:

- A. Person 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. Person 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 or the municipal liquor store for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of 18 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 18 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. (7-1-90)

Subd. 6. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or identification card issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid military identification card issued by the United States Department of Defense; or, in the case of a foreign national, from a nation other than Canada, by a valid passport. (Ordinance No. 36, Second Series, 6-25-98)

SEC. 5.16. GAMBLING PROHIBITED. It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except such as are authorized by Statute or the City Code.

SEC. 5.17. 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) street, (2) public property, or (3) 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. 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. (7-1-90)

SEC. 5.18. 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 public elementary or secondary school ground, or any public elementary or secondary school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses. (Ordinance No. 10, Second Series, 7-3-92)

SEC. 5.19. ALCOHOLIC BEVERAGES - CERTAIN UNLAWFUL ACTS. It is unlawful for any:

Subd. 1. Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.

Subd. 2. Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.

Subd. 3. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

Subd. 4. Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

Subd. 5. Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.

Subd. 6. Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law. (7-1-90)

SEC. 5.20. BREW-ON-PREMISES STORE, UNLAWFUL ACTS. It is unlawful:

Subd. 1. To sell or otherwise provide alcoholic beverages to customers of a brew-on-premises store unless the owner of the brew-on-premises store holds an appropriate liquor license.

Subd. 2. For a customer to re-sell malt liquor brewed in a brew-on-premises store or use it for any purpose other than personal use.

Subd. 3. For a minor to be a customer of a brew-on-premises store. (Ordinance No. 36, Second Series, 6-25-98)

(Sections 5.21 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 restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks.

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.

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 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. (7-1-90)

SEC. 5.32. HOURS AND DAYS OF BEER SALES. No sale of beer shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on the days of Tuesday through Saturday, nor between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on Sunday, nor between the hours of 12:00 o'clock midnight on Sunday and 8:00 o'clock A.M. on Monday. (Ordinance No. 2, Second Series, 8-3-90) (Amended, Ord. No. 133, 5-17-16)

(Sections 5.33 through 5.39, inclusive, reserved for future expansion.)

SEC. 5.40. LIQUOR LICENSE REQUIRED.

Subd. 1. Unlicensed Sales Prohibited. 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. (Ordinance No. 10, Second Series, 7-30-92; Amended, Ord. No. 82, 2/21/06)

Subd. 2. Number of On-Sale and Off-Sale Licenses Established. The City may issue on-sale liquor licenses to liquor stores and to hotels, restaurants, and clubs, with the permission of the Commissioner, and provided that liquor sales will be made only to members and bona fide guests. The City may issue two on-sale liquor licenses to liquor stores and an unlimited number of licenses to hotels, restaurants and clubs. The City may issue three (3) off-sale license to a liquor store and no additional off-sale licenses to any other establishments. The City may issue a combination off-sale and on-sale liquor license to the same licensee in which case the City may only issue one additional on-sale license to a liquor store. (Added, Ord. No. 82, 02/21/06, Amended, Ord. No. 123 Second Series, 03/30/13)

SEC. 5.40.1. 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 on-sale 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 non-profit organization in existence for at least three years, or a political committee registered under Section 10A.14 of Minnesota Statutes.

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 four consecutive days.
- C.** No temporary license shall issue until the City is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this Chapter, and that such coverage is in force on the premises where liquor is to be served.
- D.** 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.
- E.** Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.
- F.** No more than three four-day, four three-day or six two-day licenses in any combination not to exceed 12 days per year may be issued to any one organization or registered political committee, or for any one location within a 12-month period.
- G.** No more than one temporary license may be issued to any one organization or registered political committee or for any one location within any 30-day period. (Ordinance No. 36, Second Series, 6-25-98)

SEC. 5.41. SUNDAY SALES.

Subd. 1. License Required. The electorate of the City having heretofore authorized the same, a Sunday on-sale liquor license may be issued to clubs, hotels or restaurants, in conjunction with the sale of food, which have on-sale liquor licenses and which also have seating capacity for not less than 50 guests at one time. Prior to issuance of such license, the applicant shall provide the City with proof of financial responsibility for Sunday sales. (Amended, Ord. No. 105, Second Series 12-15-09)

Subd. 2. Hours of Sale. The hours of Sunday on-sale liquor sales shall be from 8:00 o'clock A.M. to 12:00 o'clock midnight on Sundays, provided that the licensee is in conformance with the Minnesota Clean Air Act. (Amended, Ord. No. 133, 5-17-16)

Subd. 3. Unlawful Acts. It is unlawful to sell liquor on Sunday unless such sales are (1) licensed in accordance with this Section, (2) in conjunction with the sale of food, and, (3) during hours of permitted sales.

CODIFIER'S NOTE: Club licenses were not included in the referendum so no Sunday licenses can be issued to clubs.

SEC. 5.42. HOURS AND DAYS OF LIQUOR SALES. No sale of liquor shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on the days of Tuesday through Saturday, nor between 12:00 o'clock midnight on Sunday and 8:00 o'clock A.M. on Monday, nor between the hours of 8:00 o'clock P.M. on December 24 and 8:00 o'clock A.M. on December 25. (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".)

SEC. 5.43. 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. (7-1-90)

SEC. 5.43.1. ON-SALE WINE LICENSE NOT REQUIRED FOR BED AND BREAKFAST FACILITY. No on-sale wine license is required for a bed and breakfast facility as defined in this Chapter and registered with the Commissioner, provided such facility provides no more than two glasses per day each containing not more than four fluid ounces of wine at no additional charge to a person renting a room at the facility. Wine so furnished may be consumed on the premises of the bed and breakfast facility. (Ordinance No. 36, Second Series, 6-25-98)

SEC. 5.44. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES. No on-sale of wine shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on the days of Tuesday through Saturday, nor between 12:00 o'clock midnight on Sunday and 8:00 o'clock A.M. on Monday, nor between the hours of 8:00 o'clock P.M. on December 24 and 8:00 o'clock A.M. on December 25. (7-1-90)

SEC. 5.45. BEER, LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS. (Ordinance No. 36, Second Series, 6-25-98)

Subd. 1. Licenses in Connection With Premises of Another. A 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. 2. Employment of Minors. No person under 18 years of age may sell or serve liquor or wine on licensed premises.

Subd. 3. Premises Eligible. 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 50 guests at one time. (7-1-90)

Subd. 4. Professional Dancer License.

A. It is unlawful for any beer, liquor or wine licensee to allow any professional dancer to perform without the beer, liquor or wine licensee having a premises dance license.

B. It is unlawful for any beer, liquor or wine licensee to employ or permit a professional dancer to perform on licensed premises who has within the preceding five years been convicted of the violation of any law, including a City ordinance.

C. Exception. This Section shall not apply to persons whose participation in a performance is restricted solely to employing either vocal or instrumental musical skills where dance movements are incidental to, and not primary to the performance. (Ordinance No. 36, Second Series, 6-25-98)

(Sections 5.46 through 5.59, inclusive, reserved for future expansion.)

SEC. 5.60. MUNICIPAL DISPENSARY. (7-1-90) (Deleted, Ord. No. 82, 2-21-06)

(Sections 5.61 through 5.69, inclusive, reserved for future expansion.)

SEC. 5.70. NUDITY OR OBSCENITY PROHIBITED.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. “Nudity” means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

B. “Obscene performance” means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

C. “Obscenities” means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

D. “Sado-masochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

E. “Sexual conduct” means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

F. “Sexual excitement” means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Subd. 2. Unlawful Act. It is unlawful for any person issued a license provided for in this Chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person. (7-1-90)

Subd. 3. Prosecution. Any prosecution under this Section shall include the following elements: (1) that the average person, applying contemporary community standards would find the performance, taken as a whole, appealing to the prurient interest of the audience; (2) that the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and (3) that the performance, taken as a whole, lacks serious literary, artistic, political or scientific value. (Ordinance No. 36, Second Series, 6-25-98)

(Sections 5.71 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. (7-1-90)