

CHAPTER 5

BEER, WINE AND LIQUOR LICENSING AND REGULATION

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CHAPTER 5

BEER, WINE AND LIQUOR 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:

- A. **“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.
- B. **“Applicant”** - means any person making an application for a license under this Chapter.
- C. **“Application”** - means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his/her 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.
- D. **“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.)
- E. **“Brewer”** - means a person who manufactures beer for sale.
- F. **“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.
- G. **“Commissioner”** - means the Minnesota Commissioner of Public Safety.
- H. **“License”** - means a document, issued by the City, to an applicant, permitting that person to carry on and transact the business stated therein.
- I. **“Licensee”** - means an applicant who, pursuant to his/her approved application, holds a valid, current license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.

- J. **“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.
- K. **“Licensed Premises”** - means the premises described in the issued license.
- L. **“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.)
- M. **“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.
- N. **“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.
- O. **“Minor”** - means any natural person who has not attained the age of twenty-one (21) years.
- P. **“Off-Sale”** - means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.
- Q. **On-Sale”** - means the sale of alcoholic beverages for consumption on the licensed premises only.
- R. **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.
- S. **Sale”, “Sell” and “Sold”** - mean all barter and all manners or means of furnishing beer, wine or liquor to persons, including such furnishing in violation of law.
- T. **“Wholesaler”** - means any person engaged in the business of selling liquor, wine or beer to retail dealers.
- U. **“Restaurant”** - means any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where, in consideration of payment thereof, meals are regularly served at tables to the general public, which employs an adequate staff to provide the usual and suitable service to its guests, and which shall have seating facilities for seating not less than eighty guests at one time.

- V. **“Hotel” and “Motel”** - means and includes any establishment having a resident proprietor or manager, where, in consideration of payment therefore, food and lodging are regularly furnished to transients, and which contains not less than ten guest rooms with bedding and other suitable and necessary furnishings in each room, and which is provided with a suitable lobby, desk and office for the registration of its guests at the main entrance and on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating not less than eighty guests at one time, where the general public is, in consideration of payment therefore, served with meals at tables
- W. **“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, limitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than one-half of one percent nor more than fourteen percent alcohol by volume. (This definition includes so-called “wine coolers” with the alcoholic content limits stated herein.)

SECTION 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 State of Minnesota, 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.

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 of the initial application, an applicant for an on-sale liquor license shall pay to the City the sum of \$100.00 an applicant for a beer license, and an applicant for an on-sale wine license shall pay to the City the sum of \$100.00 which fee shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. No such fee shall be required of an applicant for a temporary beer license. Should the Council or the Bureau of Criminal Apprehension determine that a comprehensive background investigation of the

applicant for an on-sale liquor license is necessary, then the applicant shall pay to the City an investigation fee of \$500.00 if the investigation is conducted within the State or the actual cost of the investigation not to exceed \$10,000.00 if the investigation is required outside the State.

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 approval of the issuance 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 Clerk shall forthwith issue a license pursuant thereto in the form prescribed by the City or the proper agency of the State of Minnesota, as the case may be. All licenses shall be on a fiscal year basis, July 1 to June 30. 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 valid only at one location and on the premises therein described.
- C. Refundment. A pro-rata share of an annual license fee for a license to sell liquor or beer, either on-sale or off-sale, may be refunded to the licensee, or to his/her 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.
- D. 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.
- E. 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 expirations or revocation.
- F. Revocation or Suspension. The Council may, in its sole discretion and for any reasonable cause, revoke, or suspend for a period not to exceed sixty days, any license granted under the provisions of this chapter. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violation any law relating to the sale or possession of beer, wine or liquor

upon the 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 afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing examiner, 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 the police; (3) that the licensee failed or refused to cooperate fully with the 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 Clerk 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 share 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 share 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 determine 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.

H. 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.

Subd. 5. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the Clerk without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$25.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

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

Subd. 7. Resident Manager or Agent. Before a license is issued under an 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/her written consent, (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of the 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 appoint shall be subject to revocation or suspension.

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

SECTION 5.03. RENEWAL OF LICENSES. 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. This time requirement may be waived by the Council for good and sufficient cause.

SECTION 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 a government entity, are owed and are delinquent and unpaid; or if the licensed establishment has failed to comply with other necessary permitting or licensing requirements of a government entity. Compliance with this section is an ongoing condition of a license issued under this Chapter.

SECTION 5.05. LIMITATION ON OWNERSHIP. No person shall be granted beer, liquor or wine licenses at more than one location. For the purpose of this Chapter, any person owning an interest of five percent, or more of the entity to which the license is issued, or such ownership by a member of his/her immediate family, shall be deemed to be a licensee.

SECTION 5.06. CONDITIONAL LICENSES. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefore, 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.

SECTION 5.07. 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.

SECTION 5.08. UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, beer, wine or liquor on licensed premises more than thirty (30) minutes after the hour when a sale thereof can legally be made.

Subd. 2. Removal of Containers. It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing beer, wine or liquor in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than thirty (30) minutes after the hour when a sale thereof can legally be made.

Subd. 3. Closing. It is unlawful for any person, other than an on-sale licensee or his/her bona fide employee actually engaged in the performance of his/her duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales. Provided, however, that this Subdivision shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole

purpose of preparing, serving or consuming food or beverages other than beer, wine or liquor.

SECTION 5.09. CONDUCT ON LICENSED PREMISES. Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his/her place of business and shall maintain conditions of sobriety and order therein.

SECTION 5.10. SALE BY EMPLOYEE. Any sale of beer, wine or liquor 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 the person actually making the sale; and every such employer is liable to all of the penalties provided by law for such sale, equally with the person actually making the sale.

SECTION 5.11. LICENSE CONDITION AND UNLAWFUL ACT.

Subd. 1. Inspection. 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 be issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.

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

SECTION 5.12. INSURANCE CERTIFICATE REQUIREMENTS. Whenever an insurance certificate is required by this Chapter the applicant shall file with the 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 Clerk. Cancellation or termination of such coverage shall be grounds for license revocation.

SECTION 5.13. FINANCIAL RESPONSIBILITY OF LICENSES.

Subd. 1. Proof of Financial Responsibility. No beer, wine or liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by Minnesota Statutes by filing with the City a certificate that there is in effect an insurance policy or pool providing minimum coverage's of (1) \$1,000,000 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$300,000.00 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.

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 Minnesota Commissioner of Public Safety.

SECTION 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 fascia evidence of intent to consume it at a place other than the household of his/her parent or guardian.

Subd. 4. Entering Licensed Premises. It is unlawful for a minor to enter licensed premises or the municipal dispensary for the purpose of purchasing or having served or delivered to him/her any alcoholic beverage.

Subd. 5. Misrepresentation of Age. It is unlawful for a minor to misrepresent his/her 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.

SECTION 5.15. REPEALED.

SECTION 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 any 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. 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.

SECTION 5.17. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS. It is unlawful for any person to introduce upon, or have in his/her possession upon, or in, any school ground, or any school house 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.

SECTIONS 5.18 THROUGH 5.29, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 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 therefore from the City. This Section shall not apply (1) to sales by manufacturers to wholesalers (2) to sales by wholesalers to persons holding beer licenses from the City, or (3) to sales by on-sale beer licensees on days and during hours when on-sale beer sales are permitted.

Subd. 1. Issuance of On Sale Beer License. Annual on-sale beer licenses may be issued only to persons, firms or corporations engaged in the business of conducting a food and beverage service establishment. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license.

Subd. 2. Additional Requirements. With the approval of the City Council, annual on-sale beer licenses may be issued. In addition to the other requirements of state law or this chapter, the following regulations are applicable to on-sale beer licenses:

- A. Number of Licenses. The Council may issue the number of licenses from time to time as it may, in its discretion, deem proper.
- B. Use of License. If a license is not used within one year, the license shall automatically terminate.

- C. Any product sold under this Subdivision shall be sold for consumption on the premises only.
- D. Considerations. In addition to the other requirements of this Chapter and applicable State law in determining whether or not to issue an on-sale license for a particular premises, the City Council may consider all relevant factors relating to the health, safety and welfare of the citizens of the City such as, but not limited to, effect on market value of neighboring properties, proximity to churches and schools and effect on traffic and parking.

SECTION 5.31. BEER LICENSE FEES.

Subd. 1. Fees. All fees for beer licenses shall be fixed and determined by the City Council, and adopted by resolution. Such license fees may, from time to time, be amended by City Council resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk and be open to inspection during regular business hours.

SECTION 5.32. TEMPORARY BEER LICENSE.

Subd. 1. Applicant. A club or charitable, religious, or non-profit organization, 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, shall qualify for a temporary on-sale beer license, for serving beer on and off school grounds, and in and out of 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.

SECTION 5.33. HOURS AND DAYS OF BEER SALES.

Pursuant to Minnesota State Statute 340A.504 HOURS AND DAYS OF SALE.

SECTION 5.34. BEER LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS. It is unlawful for any:

Subd. 1. Employment of Minors. Person who has not attained the age of eighteen (18) years to be employed to sell or serve beer in any on-sale establishment.

Subd. 2. Illegal Sale or Purchase. Person to knowingly induce another to make an illegal sale or purchase of beer.

Subd. 3. Obviously Intoxicated. Licensee to sell or serve beer to any person who is obviously intoxicated.

Subd. 4. Proof of Age. Licensee to fail, when doubt could exist, to require adequate proof of age of a person upon licensed premises.

Subd. 5. Non Permitted Sales. Licensee to sell beer on any day, or during any hour, when such sales are not permitted by law.

Subd. 6. Non Permitted Consumption. Licensee to allow consumption of beer on licensed premises on any day when sales of beer are not permitted by law.

Subd. 7. Non Permitted Purchase. Person to purchase beer on any day, or during any hour, when sales of beer are not permitted by law.

SECTIONS 5.35 THROUGH 5.49, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.50. 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 therefore 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, or (6) to the municipal dispensary. The voters of the City having authorized such issuance at a special election called for that purpose, the City may issue on-sale liquor licenses to (1) hotels; (2) motels and (3) restaurants. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license.

Subd. 1. Considerations. In addition to the other requirements of this Chapter and applicable State law in determining whether or not to issue an on-sale license for a particular premises, the City Council may consider all relevant factors relating to the health, safety and welfare of the citizens of the City such as, but not limited to, effect on market value of neighboring properties, proximity to churches and schools and effect on traffic and parking.

SECTION 5.51. LIQUOR LICENSE FEE. All fees for liquor licenses shall be fixed and determined by the City Council and adopted by resolution. Such license fees may, from time to time, be amended by City Council resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk and be open to inspection during regular business hours.

SECTION 5.52. 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.

Subd. 3. Terms and Conditions 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 sale on premises other than those owned or permanently occupied by the licensee.

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 the 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 \$10,000.00 for property damage, naming the City as an insured during the license period.

SECTIONS 5.53. HOURS AND DAYS OF LIQUOR SALES.

Pursuant to Minnesota State Statute 340A.504 HOURS AND DAYS OF SALE.

SECTIONS 5.54 THROUGH 5.59, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.60. 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 as part of a commercial transaction, without a license therefore 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 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, or (5) to the municipal dispensary.

Subd. 1. Considerations. In addition to the other requirements of this Chapter and applicable State law in determining whether or not to issue an on-sale license for a particular premises, the City Council may consider all relevant factors relating to the health, safety and welfare of the citizens of the City such as, but not limited to, effect on market value of neighboring properties, proximity to churches and schools and effect on traffic and parking.

Subd. 2. Additional License. The City Council may authorize a holder of an on-sale wine license, who is also licensed to sell beer on-sale, and whose gross receipts are at least 60 percent attributable to the sale of food, to sell intoxicating malt liquors at on-sale without an additional license.

SECTION 5.61. ON-SALE WINE LICENSE FEE. All fees for wine licenses and 3.2 Beer and/or Intoxicating Malt Beverages combination licenses shall be fixed and determined by the City Council and adopted by resolution. Such license fees may, from time to time, be amended by City Council resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk and be open to inspection during regular business hours.

SECTION 5.62. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.

Pursuant to Minnesota State Statute 340A.504 HOURS AND DAYS OF SALE.

SECTIONS 5.63 THROUGH 5.69, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.70. LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.

Subd. 1. Bonding. Prior to issuance of any license the applicant shall file with the 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. 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.

Subd. 2. 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. The 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. 3. Employment of Minors. No person under twenty-one (21) years of age may be employed in a place where liquor is sold for consumption on the premises, except persons under twenty-one years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell liquor and may be employed as waiters or waitresses at a restaurant or hotel where only wine is sold, provided that the person under the age of twenty-one may not serve or sell any wine.

Subd. 4. 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. 5. Number of Licenses. The Council may issue the number of licenses authorized by statute or restrict such number from time to time as it may, in its discretion, deem proper.

Subd. 6. Unlawful Acts. It is unlawful for any:

- A. Licensee to sell, offer for sale, or keep for sale, liquor in any original package which has been refilled or partly refilled.
- B. Licensee to display liquor to the public during hours when the sale of liquor is prohibited.
- C. Person to hold more than one license. For the purpose of this Subparagraph, any person owning a beneficial interest of five percent, or more, of any licensed establishment shall be considered a licensee.
- D. Person to knowingly induce another to make an illegal sale or purchase of liquor or wine.
- E. Licensee to sell liquor or wine on any day, or during any hour, when sales of liquor or wine are not permitted by law.
- F. Person to purchase liquor or wine on any day, or during any hour, when sales of liquor or wine are not permitted by law.

- G. Licensee to sell or serve liquor or wine to any person who is obviously intoxicated.

SECTIONS 5.71 THROUGH 5.79, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.80. CONSUMPTION AND DISPLAY.

Subd. 1. Consumption and Display License Required. It is unlawful for any business establishment or club, not holding an on-sale 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 therefore from the City.

Subd. 2. Fees. All fees for consumption and display licenses shall be fixed and determined by the City Council and adopted by resolution. Such license fees may, from time to time, be amended by City Council resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk and be open to inspection during regular business hours.

Subd. 3. Consumption and Display Restrictions and Regulations.

- A. Eligible Licenses. 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 licensed premises.
- C. License Expiration. In order to coordinate the expiration of a consumption and display license with a State permit, all licenses shall expire on June 30 of each year.
- 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. Pursuant to Minnesota State Statute 340A.504 HOURS AND DAYS OF SALE.

Subd. 4. License Restrictions.

- A. No license shall be granted for any premises not zoned commercial.
- B. No license shall be granted for any premises within 400 feet of any church or school.
- C. No license shall be granted to any club which has members who are minors.
- D. No license shall be granted to a person who is a manufacturer or wholesaler of beer or liquor or who has an interest in any place where beer or liquor is manufactured or sold.

SECTIONS 5.81 THROUGH 5.109, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.110. LEGALIZED GAMBLING.

Subd. 1. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. **“Gambling”** - means any activity or device prohibited by Minn. Stat. §§ 609.75, 609.755 and 609.76, and shall further include any activity, event, or contrivance that simulates any such activity or device when in or on any commercial establishment or property, except as otherwise allowed pursuant to City ordinances or state statutes, or rules adopted pursuant to authority contained therein. Prohibited gambling and gambling simulations include, but are not limited to, sports bookmaking, poker, blackjack, slot machines, and other similar activities, events and contrivances normally associated with gambling and gambling locations.

The terms used in this article which are defined in Minn. Stat. §§ 349.11--349.60, inclusive, and are defined in rules adopted pursuant to the authority contained in such statutes shall have the meanings set forth in such statutes and rules.

SECTION 5.111. LAWFUL GAMBLING. It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation 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. There shall be no gambling in the City of Lexington except bingo, raffle games, and pull-tabs, duly licensed or otherwise allowed pursuant to the provision of this article, Minn. Stat. §§ 349.11--349.60, inclusive, and

rules adopted pursuant to the authority contained in said statutes, and the state lottery authorized pursuant to Minn. Stat. Ch. 349A, inclusive.

- A. No permit shall be required for the conduct of gambling exempt from licensing under Minn. Stat. § 349.166.
- B. Nothing in this Section of the Lexington Code shall be deemed to be an automatic approval of a premises permit or bingo license applied for with the gambling control board. A licensed organization may not conduct lawful gambling in the City of Lexington unless a premises permit or bingo license is approved by City Council resolution. A premises permit shall be valid for a period of two years, unless revoked pursuant to this article or state statute.

SECTION 5.112. ADDITIONAL REGULATIONS. In addition to the requirements of Minn. Stat. §§ 349.11--349.60, inclusive, and rules adopted pursuant to the authority contained in the said statutes, lawful gambling shall be subject to the regulations set forth in the following paragraphs:

- A. It is unlawful to make side bets or other wagers in connection with the conduct of lawful gambling.
- B. A duly licensed pull-tab distribution, bingo or raffle game must be under the supervision of a gambling manager licensed under Minn. Stat. § 349.167. In order to qualify as a gambling manager, an individual must have been a member of the organization for at least two years.
- C. No person who is under the age of 21 years shall operate or assist in operating a pull-tab distribution or bingo or raffle game in Lexington.
- D. No organization may maintain more than four lawful gambling locations in the City at one time.
- E. No premises permit or bingo hall license will be approved for:
 - 1) Any organization to conduct lawful gambling on any premises other than a church, the premises of a fraternal, veterans or other nonprofit organization, or the premises of an on-sale liquor licensee licensed pursuant to the applicable sections of the Lexington Code.
 - 2) Any organization or local subdivision thereof unless all of the following requirements are met:
 - (a) The activities of the organization or its local subdivision directly or primarily benefit citizens of Lexington.

- (b) The organization or the local subdivision must have had a principal business or operations location in Anoka County for a continuous period of at least two years immediately preceding the permit request and maintain such a location as long as the organization operates lawful gambling activities in the City. The organization must have been in continuous existence holding meetings for at least two years prior to the approval of the license.
 - (c) The organization or the local subdivision may be granted a waiver of operational requirement if the Council determines the organization has significant community involvement and such a waiver would have to be granted per location up to the four-location limit.
- 3) The simultaneous conducting of lawful gambling by more than one organization on authorized premises.
- F. It is unlawful to sell, give or otherwise transfer in the City of Lexington, any raffle ticket, paddle ticket or any other opportunity to participate in any gambling event not approved by the City of Lexington pursuant to the provisions of the Minnesota Statutes and rules adopted by reference herein.
- G. Copies of the reports, which must be filed with the gambling control board, as required by Minn. Stat. § 349.19, shall be filed simultaneously with the City.
- H. A licensed organization conducting lawful gambling within the City shall contribute ten percent of its net profits derived from lawful gambling to a fund administered and regulated by the City without cost to the fund, for disbursement by the City of the receipts for lawful purposes as defined in Minn. Stat. § 349.12. For the purposes of this requirement, "net profits" are defined as gross profit less sums actually expended for allowable expenses as reported to the Minnesota Department of Revenue. Such contributions shall be made to the City within 30 days of the end of each calendar quarter. This subsection shall be effective after adoption and upon issuance of a new license or renewed license for any licensed organization.
- I. A premises permit or bingo hall license approved by the City may be suspended or revoked for violations of this chapter, or Minn. Stat. Ch. 349, or for failure to meet the qualifications set out in this chapter, or Minn. Stat. Ch. 349, or for the failure to comply, for any reason, with any provision, guaranty or claim made in the applicant's original license application to either the City or the State of Minnesota.
- J. No license or permit approved by the City, including any bingo hall license, grants the licensee a property right or entitlement to a license or permit. The City may refuse to issue, renew or may revoke the license or permit for any reason and will not incur liability for any damages including, but not limited to, direct,

consequential or incidental damages, deprivation of property, loss of income, loss of profits, or loss of livelihood.

SECTION 5.113. ADOPTION OF STATE LAW BY REFERENCE. Except where supersede by this Section, Minn. Stat. Ch. 349, inclusive, and rules adopted pursuant to the authority contained therein are hereby adopted by reference and are incorporated in this article as completely as if set forth in full.

SECTIONS 5.114 THROUGH 5.199, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.200. RESTRICTIONS ON PURCHASE AND CONSUMPTION OF LIQUOR. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

SECTION 5.201. ADOPTION OF STATE LAW BY REFERENCE. The provisions of M.S. § 340A, as they may be amended from time to time, with reference to the definition of the term, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Ordinance as if set out in full. It is in the intention of the City Council that future amendments to M.S. Ch. § 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Ordinance is adopted.

SECTION 5.202. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW. The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. § 340A, as it may be amended from time to time.

SECTION 5.203. DEFINITIONS. In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this Section:

- A. **“RESTAURANT”** – an eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served to the general public, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and have a minimum

seating capacity for guests of no less than 30 seats. A restaurant shall derive a significant portion of its gross sales revenue from food.

SECTION 5.204 THROUGH 5.209, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.210. NUMBER OF LICENSES WHICH MAY BE ISSUED.

Subd. 1. On-Sale Intoxicating Liquor Licenses. The City shall no longer issue new licenses for on-sale intoxicating liquor under Minn. Stat. Chapter 340A.413, subd. 1, and shall only grant new licenses for on-sale intoxicating liquor subject to the provisions for licenses under Minn. Stat. Chapter 340A.413, subd. 4, and as defined in this ordinance. Licenses for on-sale intoxicating liquor under Minn. Stat. Chapter 340A.413, subd. 1, shall only be renewed to licensees who possessed such a license. Once a license has been revoked or cancelled, new licenses shall only be granted for on-sale intoxicating liquor to restaurants or other entities provided under Minn. Stat. Chapter 340A.413, subd. 4. Accordingly, the City designates that it shall no longer issue new on-sale intoxicating liquor licenses against its permissible total licenses under Minn. Stat. Chapter 304A.413, subd. 1., and as each such existing license for on-sale intoxicating liquor expires without renewal, or has been revoked or cancelled, the number of licenses available within the City is reduced accordingly until the number of on-sale intoxicating liquor licenses issued under Minn. Stat. Chapter 340A.413, subd. 1, shall equal zero.

The intent of this subdivision is to transition all establishments serving alcoholic beverages within the City to serve food and to reduce the amount of over-serving of alcohol, which can be associated with bars that do not promote regular table service of food.

Subd. 2. Restaurant Licenses. The City shall not restrict the number of on-sale intoxicating liquor licenses issued to restaurants, theaters, hotels, clubs, veteran's organizations, or bowling centers as regulated under Minn. Stat. Chapter 340A.413, subd. 4.

Subd. 3. Establishments Existing at Time of Ordinance Adoption. Notwithstanding subdivision one (above), establishments holding a license under Minn. Stat. Chapter 340A.413, subd. 1, at the time this subdivision is adopted on April 7, 2011, shall be granted a conditional right related to licensure for on-sale intoxicating liquor under Minn. Stat. Chapter 340A.413, subd. 1. As long as the licensee owning such an establishment continues to qualify for licensure under Minn. Stat. Chapter 340A.413, subd. 1, the licensee, or a future owner or transferee of the establishment shall have the right to obtain a license for on-sale intoxicating liquor under Minn. Stat. Chapter 340A.413, subd. 1, if they so qualify. Whenever the license of such an establishment expires without renewal, or such a license has been revoked or cancelled, thereafter the right to apply for a license for on-sale intoxicating liquor under Minn. Stat. Chapter 340A.413, subd. 1, shall be prohibited.

SECTION 5.211. TERM AND EXPIRATION OF LICENSES. Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Any license or permit issued by the Commissioner of Public Safety, and the accompanying city consent, shall expire on a date set by State law or regulation.

SECTION 5.212. KINDS OF LIQUOR LICENSES. The City may issue the follow type of license:

Subd. 1. 3.2 Percent Malt Liquor On-Sale Licenses. May be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

Subd. 2. 3.2 Percent Malt Liquor Off-Sale License. Off-sale intoxicating liquor license may not be issued to a place where 3.2 percent malt liquor is sold for consumption on the premises.

Subd. 3. Temporary 3.2 Percent Malt Liquor Licenses. May be issued only to a club, charitable, religious, or nonprofit organization.

Subd. 4. On-Sale Intoxicating Liquor Licenses. May be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this ordinance: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veteran's organizations, and theaters. The City shall issue the following classes of on-sale intoxicating liquor licenses:

- A. General, On-Sale Intoxicating Liquor Licenses. No license issued pursuant to Minn. Stat. Chapter 340A.413, subd. 1, is valid unless the establishment serves liquor only in conjunction with the service of food.
- B. Restaurant, On-Sale Intoxicating Liquor Licenses. No licenses issued pursuant to Minn. Stat. Chapter 340A.413, subd. 4, is valid unless the establishment serves liquor only in conjunction with the service of food, and the establishment receives at least 60% of gross receipts from the sale of food and not more that 40% of gross receipts from the sale of liquor.
- C. Special, On-Sale Intoxicating Liquor Licenses. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to

time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

Subd. 5. Sunday On-Sale Intoxicating Liquor Licenses. Sunday on-sale intoxicating liquor licenses may be issued to a restaurant, club, bowling center, hotel, which has a seating capacity of at least 30 persons, or other establishments which hold a valid on-sale intoxicating liquor license and which serves intoxicating liquor only in conjunction with the service of food. This Sunday on-sale intoxicating liquor license shall be subject to the same requirements as the class of on-sale intoxicating liquor license held by the licensee.

Subd. 6. Temporary On-Sale Intoxicating Liquor Licenses. With the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

Subd. 7. On-Sale Wine Licenses. With the approval of the Commissioner of Public Safety to: theaters, restaurants, bed and breakfast facilities the fee for an on-sale wine license established by the Council shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license, who also holds an on-sale 3.2 percent malt liquor license, is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

Subd. 8. One Day Consumption and Display Permits. With the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

Subd. 9. Approval of the Issuance of a Consumption and Display Permit by the Commissioner of Public Safety. The Commissioner of Public Safety may issue a consumption and display permit. Consumption and display permits shall expire on March 31 of each year, or according to their terms.

Subd. 10. Culinary Class Limited On-Sale Licenses. May be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the

participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

Subd. 11. Brew Pub On-Sale Intoxicating Liquor or On-Sale 3.2 Percent Malt Liquor Licenses. With the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year.

SECTION 5.213. LICENSE FEES.

- A. No license or other fee established by the City shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish from time to time the fees for the liquor licenses it is authorized to issue. The license fee shall be in compliance with M.S. §340A.408, subd. 2.
- C. All license fees shall be paid in full at the time the application is filed with the City. If the application is denied, license fees in excess of the base fee established by the City shall be returned to the applicant less any outstanding costs for the application fee and/or background investigation.

SECTION 5.214 THROUGH 5.219, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.220. APPLICATION FOR LICENSE.

Subd. 1. Form. Every application for a license issued under this ordinance shall be on a form provided by the City. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the City. No person shall make a false statement in an application.

Subd. 2. Financial Responsibility. Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the City and the Commissioner of Public Safety. Any liability insurance

policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. It is a condition of the license that this proof will be filed and valid with the City and Commissioner of Public Safety. Operation of a business which is required to be licensed by this chapter without having on file with the City at all times proof of financial responsibility to include liquor liability/dram shop, general liability and workers compensation insurance coverage is a cause for revocation of the license. Proof of financial responsibility shall be provided as follows:

- A. **Dram Shop.** A certificate that there is in effect an annual aggregate insurance policy for dram shop insurance of not less than statutory requirements per policy year to cover each person, each occurrence, property damage each occurrence, loss of means of support per person, loss of means of support each occurrence and policy aggregate.
- B. **General Liability.** Proof of financial responsibility shall be given by filing a certificate that there is in effect for the license period an insurance policy or pool providing at least double the coverage minimums set forth in Minn. Stat. Section 340A.409, subd. 1. The aggregate limits for loss or injury to multiple persons required herein shall be increased based on the occupancy of the licensed establishment. These aggregate limits shall double for each 100 persons of occupancy of the licensed establishment.
- C. **Workers' Compensation Insurance.** The policy limits for workers' compensation insurance shall be as provided for by state law.
- D. **Additional Requirements.** The liability insurance required by this section must provide that the City is named on the policy as an 'other insured' and that the policy may not be canceled for any cause by either the insured or the insurer unless the canceling party has first given ten-days' notice in writing to the City of intent to cancel the policy. Notice must be sent to the City pursuant to Minn. Stat. Section 340A.409. Notice of cancellation of any insurance or surety serves as notice of revocation of the City's license, and said license is revoked effective at the same date and time when insurance or surety is not effective. Under this provision the licensee shall not receive a hearing or notice of a hearing from the City before revocation unless so timely requested by the licensee to occur during a regularly scheduled meeting of the Council or at other time as it shall see fit.

SECTION 5.221. DESCRIPTION OF PREMISES. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description shall include any parking lot or sidewalk, and shall include the occupancy as approved by the Fire Department.

SECTION 5.222. APPLICATIONS FOR RENEWAL. At least 60 days before a license issued under this ordinance is to be renewed, an application for renewal shall be

filed with the City. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

SECTION 5.223. TRANSFER OF LICENSE. No license issued under this ordinance may be transferred without the approval of the Council. Any transfer of ownership, beneficial interest, or stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this ordinance applying to applications for a license shall apply.

SECTION 5.224. INVESTIGATION.

Subd. 1. Preliminary Background and Financial Investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the investigation appears to exceed \$500 the applicant shall post the cost of the investigation as estimated by the City, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

Subd. 2. Comprehensive Background and Financial Investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license. Each person or business named in or as part of this application shall execute a written authorization allowing the City and/or the Chief of Police to verify all information disclosed as part of the application.

SECTION 5.225. HEARING AND ISSUANCE. The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the

Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

SECTION 5.226. RESTRICTIONS ON ISSUANCE. Each condition below must be satisfied before the City can issue a new or renewed license. Failure of a licensee to meet any one of the conditions of the license specified below during the license period shall result in a suspension of the license until the condition is met, and is grounds for the City to revoke the license.

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one license shall be directly or indirectly issued within the City to any one person. For the purpose of this Section, any person owning an interest of more than five percent of the entity to which the license is issued, or such ownership by a member of his/her immediate family, shall be deemed to be a licensee.
- C. No license shall be issued for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City or other governmental units are delinquent and unpaid.
- D. No license shall be issued for any place or any business ineligible for a license under state law.
- E. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, ownership shall be subject to the requirements set forth in section 6.02. The provisions of this division (E) shall not apply to any license existing on the effective date of this ordinance or to the renewal of an existing license.
- F. No license shall be granted pursuant to Minn. Stat. Chapter 340A.413, subd. 1, to any establishment within 400 feet of any school, daycare, or church. The distance is to be measured from the closest side of the school, daycare, or church to the closest side of the structure on the premises within which liquor is to be sold.
- G. No license may be issued to a person who is disqualified. A disqualified person includes, but is not limited 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 violation of the Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; (4) a person convicted of a felony, or a crime involving dishonesty, assault, controlled substances or substance abuse; (5) a person whom a medical professional

determined to be chemically dependent or has suffered from substance abuse; (6) a person who has had an alcoholic beverage license revoked within five years of the license application; or, (7) a person not of good moral character and repute. A disqualified person is also: (1) any person who at the time of one of the violations stated above 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, limited liability corporation, business, or firm in which any such person is in any manner interested; or, (2) the spouse of a disqualified person, or such other person who, in the judgment of the City Council, is not the real party in interest or beneficial owner of the business to be operated under the license.

- H. No license shall be issued until the premise has passed inspection by the City Building Inspector and Fire Department, or unless such inspections have been waived by the City.

SECTION 5.227. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this ordinance.

SECTIONS 5.228 THROUGH 5.229, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.230. CONDITIONS OF LICENSE. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met, and is grounds for the City to revoke the license.

Subd. 1. Employee Training. Within 30 days after employment, every person selling or serving liquor, or supervising such persons, in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. Proof of training shall be provided by the licensee to the City on an annual basis, or when so requested by the City.

Subd. 2. Licensee As Responsible Party. Every licensee and the responsible party named in the license application shall be responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee and the responsible party, and the licensee and the responsible party shall be liable for all penalties provided by this ordinance and the law equally with the employee. In particular, every licensee is responsible for the conduct of the place of business and the conditions of sobriety of each person and order in it.

Subd. 3. Compliance and Inspection. Every licensee shall allow any peace officer, health officer, City employee, or any other person designated by the Council to

conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours at any time a person remains on the premises without a warrant. The licensee shall provide the City with business records, tax records or other data as requested, and shall provide a copy of periodic and annual sales tax returns to the City within 14 days of their due date to the State. The licensee shall reply to any data request by the City within 14 days.

Subd. 4. No Display of Liquor. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subd. 5. Financial Responsibility. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

Subd. 6. Food Service. Any establishment holding an on-sale liquor license must provide food service to its patrons anywhere on the premises where alcohol is present or served. For the purpose of this section "food service" means a licensed restaurant which shall provide sandwiches, pizza, hamburgers, hot dogs, chicken wings or other principal food items, as approved by the City. Food items such as popcorn, peanuts, chips, pretzels, and other snack foods would not be considered food items.

Subd. 7. Promotions. Any establishment holding an on-sale liquor license may not have promotional sales or "specials" for the sale of intoxicating beverages after 10:00 p.m. After 10:00 p.m., each intoxicating beverage offered for sale by the licensee must be sold at the same established price each day of the week. Prohibited promotional activities include but are not limited to discounting the price of a beverage, increasing the quantity of a beverage sold for a given price, increasing the number of beverages sold at a given price, "two-for-one," "happy-hour," birthday specials or other promotional activity related to changing the price per quantity of intoxicating beverage sold. The prohibitions in this subdivision are intended to reduce over-serving intoxicating beverages to patrons and are not intended to interfere with the licensee's right to set an established price for its products based on normal market forces such as cost of supply, labor or overhead.

Subd. 8. Unlawful Activity. Gambling or games of chance which dictate the price or quantity of a beverage are otherwise barred by law.

Subd. 9. Restricted Persons. Any establishment holding a general on-sale intoxicating liquor license may not allow the following persons to consume alcohol:

- A. No person may consume alcohol until an employee of the establishment actually views valid age identification showing that they may legally consume alcohol. The licensed establishment may not serve alcohol to a person of any age who does not have valid age identification in their possession.
- B. No person may provide alcohol for consumption to an obviously intoxicated person. A person is presumed to be obviously intoxicated when they have a

blood alcohol content of 0.20 or greater within two hours of consuming alcohol at the licensed establishment, or leaving the licensed establishment, whichever period is longer. It is not a defense to this condition that the obviously intoxicated person consumed alcohol before arriving at the licensed establishment. It is not a defense to this condition that alcohol was provided to the obviously intoxicated person by someone other than the licensee or employee of the licensee.

- C. Any person who has a driver's license restricting the licensee from any use or consumption of alcohol.
- D. Any person who has been ordered by a court to refrain from the use, possession or consumption of alcohol, or has been ordered to refrain from entering an establishment which serves alcoholic beverages.
- E. The licensed establishment is presumed to know the status of such restricted persons set forth in subparagraphs (C) and (D) (above) when written notice has been sent to the licensee by the City, City Attorney, Police or other competent government official. The licensed establishment is required to post such notice(s) received pursuant to this paragraph in a conspicuous place such that all employees of the establishment may read the notice. Notice sent to the licensee via first class mail, email or fax is deemed sufficient notice under this paragraph.

Subd. 10. Reporting Crime. Any establishment holding a general on-sale liquor license is required to immediately report all crimes occurring on, or in the general vicinity of the licensed premises to law enforcement personnel.

Subd. 11. Maintain Order. Any establishment holding an on-sale liquor license is required to keep the peace and provide for the security of all persons and property on the premises of the establishment, and for all persons in the general vicinity of the establishment who have left the premises

Subd. 12. Security. Any establishment holding a general on-sale intoxicating liquor license must have dedicated and licensed trained security personnel on the premises.

- A. Standards for Security. The licensee must provide for security of their establishment in a manner approved by the City. Unless otherwise approved by the City, the licensee must have security personnel on the premises from 5:00 p.m. until one-hour after the close of the establishment, and on the premises at such other times as necessary to keep the peace and provide security.
 - 1) There shall be no less than one security guard on duty beginning at 5:00 p.m. Monday, Tuesday, Wednesday, and Sunday.
 - 2) There shall be no less than two security guards on duty beginning at 5:00 p.m. Thursday, Friday and Saturday.

3) Notwithstanding the requirements above, there shall be no less than two security personnel on duty during any special event whereby it would be reasonably necessary to keep the peace and provide security. (i.e. Football games, bachelor parties, etc.)

- B. These provisions are a minimum requirement and are subject to change by the City at any time during the license period as may be reasonable and prudent based on citizen complaints, or events or calls for emergency services related to the operation of the licensed establishment. The licensee shall be notified in writing of any change to these minimum requirements and shall have the right to demand a hearing before the Council related to any such changes.
- C. Qualifications for Security Personnel. Unless otherwise approved by the City, security personnel must be a licensed Protective Agent or Private Detective pursuant to Minn. Stat. Section 326.338. Security personnel must not be an employee of the licensee and must be bonded and/or insured in the same manner as the licensee as set forth in this Chapter.

Subd. 13. Transportation of Impaired Persons. Any establishment holding a general on-sale intoxicating liquor license must provide transportation for any patron who has consumed alcohol on the premises, or who appears intoxicated. Unless conducted pursuant to a transportation plan approved by the City, the licensed establishment must arraign for transportation by an unimpaired driver and must pay for the transportation in an amount up to \$10.00.

SECTION 5.231. HOURS AND DAYS OF SALE.

- A. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

- E. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

SECTION 5.232. MINORS ON PREMISES.

- A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
- B. No person under the age of 18 years may enter any room in a licensed establishment constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale after 9:00 p.m., except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

SECTION 5.233. CONTESTS OF PUGILISM PROHIBITED.

Subd. 1. Findings. The City Council finds that it is in the best interests of public health, safety and general welfare of the people of the City that Boxing, Ultimate Fighting or more generally, contests involving pugilism or battery are prohibited as provided in this section within any licensed premises regulated under this chapter. This is to protect and assist the owner, operators and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol and violence. The Council especially intends to prevent any endorsement of assaultive behavior or activities likely to lead to the possibility of various criminal conduct, including assault, battery, threatening behavior, disorderly conduct, or public nuisance. The Council also finds that the prohibition of contests involving pugilism or battery on the premises of any establishment licensed under this chapter reflects the prevailing community standards of the City. The City Council finds that it is in the best interests of enforcing its liquor ordinances and policing establishments which can serve intoxicating beverages that this prohibition shall also apply to non-alcoholic events occurring within a licensed premises regulated under this chapter.

Subd. 2. Unlawful Acts. It shall be unlawful for any contest or act of pugilism, battery or Ultimate Fighting to occur within a licensed premises regulated under this chapter.

Subd. 3. Violations. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or beer license, or the imposition of a civil penalty under the provisions of this chapter.

SECTION 5.234. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

- A. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this ordinance. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this ordinance, as set forth in this section, reflects the prevailing community standards of the city.
- B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.
- C. A violation of this Chapter is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this Chapter. Penalties associated with criminal prosecution are separate and distinct from any license action which may be taken by the City.

SECTION 5.235. RAFFLES, SILENT AUCTIONS AND FUND RAISING EVENTS FOR CHARITABLE PURPOSES OF WINE, BEER OR INTOXICATING LIQUORS. No person shall conduct a silent auction, raffle or other fund raising event pursuant to Minn. Stat. § 340A.707 with prizes or awards of wine, beer or intoxicating liquors without notifying the City Clerk of the event at least ten days prior to the occurrence of the event. The event holder shall provide the City with the following information: the person or organization holding the event, the date, time and location of the event, type of fund raising event (silent auction, raffle or otherwise), type and amount of wine, beer, intoxicating liquor to be awarded as prizes, and the charitable purposes to which the event proceeds will be donated.

SECTION 5.236 THROUGH 5.239, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.240. CONSUMPTION IN PUBLIC PLACES. No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley where the public has access, or in any public place

other than on the premises of an establishment licensed under this ordinance, or where the consumption and display of liquor is lawfully permitted.

SECTION 5.241 THROUGH 5.259, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.260. PENALTIES.

Subd. 1. The Council shall sanction the licensee upon finding the licensee failed to comply with any applicable statute, regulation, or provision of this ordinance relating to liquor. The sanctions available to the Council include revocation of the license, suspension of the license for up to sixty-days, and/or a civil penalty of up to \$2,000.00. The Council may also impose additional restrictions or conditions on a license. Except in cases of lapse of proof of financial responsibility or conditions which immediately void a license, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

Subd. 2. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this Chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

- A. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of the prohibitions against nudity on the licensed premises, the license shall be revoked.
- B. A finding that the licensee has failed to comply with any applicable statute, rule, or provision of this ordinance will subject the licensee to the following administrative penalties:

Type of License	1 st Violation	2 nd Violation	3 rd Violation	4 th Violation
On-sale intoxicating	\$1000 and up to 3 days	\$1500 and up to 5 days	\$2000 and up to 10 days	Revocation
On-sale restaurant	\$500 and up to 3 days	\$1000 and up to 5 days	\$1500 and up to 10 days	Revocation
On-sale beer, wine, or brew pub	\$250 and up to 3 days	\$500 and up to 5 days	\$1000 and up to 10 days	Revocation
All other licenses	\$500 and up to 3 days	\$1000 and up to 5 days	\$1500 and up to 10 days	Revocation

- C. The Council may select the day or days during which the license will be suspended. The days of suspension shall be consecutive.

Subd. 3. Immediate Suspension. Conditions which effect an immediate suspension of a license pursuant to this ordinance or state law occur without further action of the Council. Failure to pay a civil penalty by the date set by the Council shall effect an immediate suspension of the license. Lapse of required proof of financial responsibility shall effect an immediate suspension of the license. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted at the next regularly scheduled Council meeting. Any suspension under this Section shall continue until the Council determines that the financial responsibility requirements of state law and this ordinance have again been met.

Subd. 4. The term “violation” as used in this Section includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period, and include any violation which may have occurred under the license ordinance in effect prior to the adoption of this ordinance. License revocation or suspension shall occur no later than 60 days following a violation for which such a sanction is warranted or imposed unless a shorter period is specified by law. Any person violating the provisions of this ordinance or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law. License action pursuant to this Chapter does not bar criminal prosecution.

SECTION 5.261 THROUGH 5.269, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 5.270. EXISTING MUNICIPAL STORES CONTINUED. The City has in existence on the effective date of this ordinance a municipal liquor store for the sale of intoxicating liquor. The operation of this municipal liquor store is continued. Except as specifically provided in the Code, no intoxicating liquor may be sold at retail elsewhere in the City.

SECTION 5.271. OPERATION.

Subd. 1. Manager. The municipal liquor store shall be in the immediate charge of a Liquor Store Manager, and who shall report to the City Administrator. The Manager shall not be a person who would be prohibited by law or any provision of this ordinance from being eligible for an intoxicating liquor license. The Manager shall furnish a surety

bond to the City, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the City or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this ordinance and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.

Subd. 2. Other Employees. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the City or the employees, as the Council determines.

Subd. 3. Municipal Liquor Store Fund. All of the revenue received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the City or to any other appropriate fund of the City by resolution of the Council, and may be expended for any City purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.