

CHAPTER XII

LIQUOR AND BEER

Section 1200 - Sale, Consumption and Display of
Alcoholic Beverages - General Provisions

1200.01. Provisions of state law adopted. Except as modified in this chapter, the provisions of Minnesota Statutes, chapter 340A, relating to the matters of retail sale, distribution and consumption of alcoholic beverages are adopted by reference and made a part of this chapter.

1200.03. Definitions. Subdivision 1. For purposes of this chapter, and in addition to those definitions not inconsistent with this chapter contained in Minnesota Statutes, chapter 340A, the terms defined in this subsection have the meaning given them.

Subd. 2. "Bar" means a counter at which alcoholic beverages are served to customers.

Subd. 3. "Display" means the keeping, storing and permitting to be kept or stored of an alcoholic beverage which has been poured, dispensed or has had its package seal broken, on, in or at any table, booth, bar or other area of a licensed premises accessible to the general public.

Subd. 4. "Premises" means the square foot area constituting the establishment to be licensed, and which is described in the license application.

Subd. 5. "Package" or "original package" means corked or sealed container or receptacle holding an alcoholic beverage.

Subd. 6. "Commissioner" means the commissioner of public safety of the state of Minnesota.

Subd. 7. The term "hotel" means and includes (i) an establishment where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than 50 guest rooms with bedding and other usual, suitable and necessary furnishings in each room which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests, which employs an adequate staff to provide suitable and usual service, and which is 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 150 guests where the general public is, on consideration of payment therefor, served meals at tables; and (ii) an establishment consisting of the premises sought to be licensed and the immovable fixtures located thereon has a fair market value of at least \$1,000,000. In determining the fair market value to assign to the establishment, the council may rely upon real estate tax information and other factors it deems appropriate.

Subd. 8. "Interest" means an interest, pecuniary or otherwise, in the ownership, operation, management or profits, of a retail liquor establishment, but does not include (i) bona fide loans; (ii) bona fide fixed sum rental agreements; (iii) bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to the establishment. A person who receives monies from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefor and excluding bona fide gifts or donations, is deemed to have a pecuniary interest in such retail license: in determining "bona fides", the reasonable value of the goods or things received as consideration for any payment by the licensee and other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this section will be considered.

Subd. 9. "Restaurant" has the meaning given by subsection 1210.01, subdivision 2.

Subd. 10. "Intoxicating liquor" means ethyl alcohol, distilled, fermented, spiritous, vinous and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 11. "3.2 malt liquor" means malt liquor containing not less than one-half of one percent alcohol by volume and not more than 3.2 percent alcohol by weight. (Amended, Ord. No. 97-13, Sec. 1)

1200.05. License required. Except as provided by state law, it is unlawful to directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as a part of a commercial transaction without a license.

1200.07. Application. Subdivision 1. Form. An application for a license is made upon a form supplied by the city.

Subd. 2. Contents. In addition to such other information as the city council may from time to time require, an application for a license must contain: (i) the name of the applicant; (ii) age of the applicant; (iii) representations as to the applicant's character, with such references as the council may require; (iv) citizenship; (v) the type of license applied for; (vi) the business in connection with which the proposed license will operate; (vii) the location of the establishment, including the legal description of the real property, together with a specific description of the gross square feet to be occupied by the business to be operated under the license for which an application has been made; (viii) whether the applicant is the owner and operator of the business; and (ix) how long the applicant has been in that business at that place. A copy of each summons received by the applicant under Minnesota Statutes, section 340A.802 during the preceding year must be attached to each application. An application for any type of intoxicating liquor license must be in the form prescribed by the commissioner.

Subd. 3. Filing, verification: execution. An application for a license must be subscribed and sworn to before a notary public or other appropriate official and filed with the city clerk. The application must be executed according to law as set forth in the application form.

Subd. 4. False statements. It is unlawful to make a false statement in an application for a license.

1200.09. Fee. The license fees are set by Appendix B and subject to subsection 1000.05. The license fees are set forth in Appendix B.

1200.11. Restrictions: general. Subdivision 1. Other laws apply. A license is subject to the conditions of this section, other provisions of this code, and other applicable ordinances, laws or regulations.

Subd. 2. License posting. A retail license must be posted in a conspicuous place in the premises for which it is granted.

Subd. 3. Racial discrimination. A retail license may not be issued or renewed by the city to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

Subd. 4. Order. A licensee is responsible for the conduct of persons on the licensed premises and must maintain conditions of sobriety and order.

Subd. 5. Exclusive liquor stores. Exclusive liquor stores may not be operated in the city.

Subd. 6. Inspections. A police officer or properly designated employee of the city may enter, inspect and search the premises of the licensee during business hours, or at any time when employees are on the premises, without a search and seizure warrant for the purpose of detecting violations of the provisions of this chapter. Any private club or public place allowing the consumption or display of intoxicating or 3.2 malt liquor that requires the use of a key, password, passkey, passcard, or other indicia of membership and access; shall provide the chief of police with such indicia of membership to be used only for the purpose as set forth in this section. Refusal to permit such inspection is a violation of this ordinance and grounds for discipline of the licensee, which may include revocation of the license. (Amended Ord No 03-04)

Subd. 7. License: limited to space. A retail license to sell alcoholic beverages is effective for compact and contiguous area specified in the approved license.

Subd. 8. Prostitution. A licensee or its employees, may not knowingly permit the licensed premises or a room in those premises or an adjoining building directly or indirectly under the licensee's control to be used as a resort for prostitutes.

Subd. 9. Licensee's responsibility. A licensee is responsible for the conduct in the licensed establishment. A sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 10. Sanitary conditions. Licensed premises must be kept in a clean and sanitary condition.

1200.13. Hours and days of sale. Subdivision 1. 3.2 malt liquor. On-sale or off-sale of 3.2 malt liquor may not be made in the city during the hours and on the days that such sales are prohibited by Minnesota Statutes, section 340A.504. It is unlawful for 3.2 percent malt liquor to be drunk, consumed, served, kept, displayed, or permitted to be on or in any table, booth, bar, or other place in such licensed premises, except the stock of liquors stored therein during such times on the premises in such portions thereof as are accessible only to the licensee and the licensee's employees, at which times it is unlawful for 3.2 percent malt liquor to be sold. (Amended, Ord. No. 03-04)

Subd. 2. Intoxicating liquor. On-sale of intoxicating liquor may not be made in the city during the hours and on the days that such sales are prohibited by Minnesota Statutes, section 340A.504. It is unlawful for intoxicating liquor to be drunk, consumed, served, kept, displayed, or permitted to be on or in any table, booth, bar, or other place in such licensed premises, except the stock of liquors stored therein during such times on the premises in such portions thereof as are accessible only to the licensee and the licensee's employees, at which times it is unlawful for intoxicating liquor to be sold. (Amended, Ord. No. 03-04)

1200.15. Other restrictions. Except as otherwise provided in this chapter:

- (a) A licensee may not display alcoholic beverages to the public during hours when the sale of such alcoholic beverage is prohibited.
- (b) It is unlawful to mix or prepare alcoholic beverages for consumption in a public place or place of business unless that place is licensed to sell alcoholic beverages under this chapter and has been issued a permit from the commissioner. It is unlawful to consume alcoholic beverages in an unlicensed place.
- (c) Consumption in public places. It is unlawful to consume alcoholic beverages on a public highway, public park or other public place. It is unlawful to have on one's person while in a private motor vehicle upon a public highway, a bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. The owner of a private motor vehicle or the driver, if the owner is not present, may not keep or allow to be kept in a motor vehicle upon a public highway a bottle or receptacle containing alcoholic beverages unless it is kept in the trunk of the motor vehicle, or, if the vehicle has no trunk, in some other area of the motor vehicle not normally occupied by the driver or passengers.
- (d) Tampering. It is unlawful for a licensee to sell, offer for sale, or keep for sale, alcoholic beverages in an original package that has been refilled or partly refilled. A licensee may not directly or through any person delete or in any manner tamper with the contents of an original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of an alcoholic beverage in the original package differing in composition, alcoholic content, or type other than the liquor received from the manufacturer or wholesaler from whom it was purchased, is *prima facie* evidence that the contents of the original package have been diluted, changed or tampered with.
- (e) Gambling. Gambling and gambling devices, except lawful gambling devices permitted by Minnesota Statutes, chapters 349 and 349A, are not permitted on a licensed premises.

1200.17. Revocation. Subdivision 1. General. The council may suspend or revoke a license issued under this chapter, or impose a civil fine for the violation of any provision or condition of this chapter, or of any state law or federal law regulating or relating to the retail sale of alcoholic beverages,

and must revoke the license for a willful violation which, under the laws of the state, is grounds for mandatory revocation. If a licensee holds a federal retail liquor dealer's special tax stamp without holding a license for the on-sale of intoxicating liquor, grounds exist for mandatory revocation of the license.

Subd. 2. Procedure. The licensee must be afforded an opportunity for a hearing pursuant to Minnesota Statutes, section 14.52 to 14.70, before the council may vote whether to revoke or to suspend the license. A suspension may not exceed 60 days. The provisions of Minnesota Statutes, section 340A.415 are adopted by reference.

Subd. 3. Fine imposed. As an alternative to suspending or revoking a license, the council may impose a civil fine, the amount of which is established by resolution by the council, but the fine may not exceed the limit set forth in Minnesota Statutes, section 340A.415.

1200.19. Persons under 21; illegal acts. Minnesota Statutes, sections 340A.503, subdivisions 1 to 7 inclusive, and 340A.412, subdivision 10, relating to persons under the age of 21 years are adopted and are incorporated herein specifically by reference and apply to licensed premises and persons under this chapter.

1200.21. Enlargement, alterations of extension of the licensed premises. Proposed enlargement, alteration or extension of a licensed premises must be reported to the city clerk at or before the time application is made for a building permit for the change, together with the information required by the council. The proposal is subject to the investigation fee imposed by subsection 1200.03.

1200.23. Proof of possession. Proof of the right to the possession by the licensee of the premises may be required at any time. Lack of evidence satisfactory to the council of such right of possession is grounds for revocation of the license.

1200.25. Entertainment. (Added, Ord. 90-17, Sec. 1) Subdivision 1. General rule. Entertainment in the form of live performances, recorded music or public dancing is permitted on the licensed premises only upon the issuance of an entertainment license.

Subd. 2. Applicability of subsection 1100.07. The provisions of subdivisions 2, 3, 4, 5, 7 and 9 of subsection 1100.07 of this code are applicable and govern licenses issued pursuant to this subsection.

Subd. 3. Hours. Unless the license provides otherwise, the licensed entertainment may be conducted during the hours and the days of the week that the sale of alcoholic beverages is permitted on the licensed premises but no later than one-half hour prior to the legal closing time.

Subd. 4. Exceptions. No license is required under this subsection for entertainment in the forms of coin operated jukeboxes which are operated by patrons or television which is located in the bar area of the licensed establishment.

Section 1205 - Intoxicating Liquor Licenses

1205.01. Intoxicating liquor licenses. Subdivision 1. On-sale. On-sale intoxicating liquor licenses are issued to hotels, restaurants or clubs, and permit the on-sale of intoxicating liquor for consumption on the licensed premises. Holders of an on-sale intoxicating liquor license may make on-sale sales of 3.2 malt liquors and wine without further license. (Amended, Ord. No. 97-13, Sec. 3)

Subd. 2. Restaurant. "Restaurant," for purposes of the on-sale of intoxicating liquors, means (i) any establishment to be licensed, other than a hotel or motel, under the control of a single proprietor or manager, having appropriate facilities to serve meals, for seating not less than 60 at one time for meals, and where in consideration of payment therefor meals are regularly served at tables to the general public and which employs an adequate staff for the usual and suitable service of its guests and whose gross receipts are attributable no more than 60% to liquor and at least 40% to food sales; and (ii) which establishment to be licensed, consisting of the premises sought to be licensed and the immovable fixtures located thereon, has a fair market value of at least \$500,000. In determining the fair market value to assign to the establishment sought to be licensed, the council may rely upon real estate tax information and other factors. (Amended, Ord 06-14)

If the establishment to be licensed is in a grouping of retail businesses, service establishments, or office uses located on a single site with common parking facilities, the entire fair market value of the site and all improvements on the site may be considered for the purpose of meeting the valuation requirement of this subdivision. (Amended, Ord. No. 96-05, Sec. 1)

Subd. 3. Temporary license. Subject to the provisions of Minnesota Statutes, section 340A.404 (10) and after first receiving approval by the commissioner, a club or charitable, religious, or other nonprofit organization in existence for at least three years may be issued a temporary license for the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee. A temporary license under this section authorizes the on-sale of intoxicating liquor for the date and time specified in the license.

Subd. 4. Sunday liquor. A restaurant, club or hotel with a seating capacity for at least 30 people, in conjunction with the serving of food and in accordance with law, and that holds a Sunday on-sale intoxicating liquor license may not sell or serve in the city during the hours and on the days that such sales are prohibited by Minnesota Statutes, section 340A.504. (Amended, Ord. No. 05-08)

Subd. 5. Off-sale prohibited. The off-sale of intoxicating liquor, other than at the municipal liquor dispensary, is prohibited.

1205.03. Fees. Subdivision 1. Timing. The initial license fee is due and payable in full upon issuance of the license. Fees must be paid into the general fund and may not be refunded once a license is issued. A license may not be issued until the fee is paid.

Subd. 2. Prorated fees. The fee imposed on an on-sale license granted after the commencement of the license year will be prorated on a monthly basis. A special license for Sunday liquor sales will be prorated on a quarterly basis. The pro rata determination includes the month or quarter in which the application is approved by the council.

Subd. 3. Premises not ready for occupancy. When the license is for premises where the building is not ready for occupancy, the license fee for the initial license period is due and payable 90 days after approval of the license by the council or upon the date a certificate of occupancy for the premises is issued, whichever is sooner.

Subd. 4. No additional fee; certain circumstances. Where a new application has been filed pursuant to subsection 1205.05 an additional license fee is not required.

Subd. 5. No refund of fees paid. License fees are not refundable.

1205.05.Subd. 1. Reference. Applications for a license will be referred to the chief of police and to such other city departments as the city manager deems necessary for verification and investigation of the facts set forth in the application. The chief of police must investigate the information required in subsection 1200.03. The chief must make a written recommendation and report to council, a recommendation that must include a list of all violations for federal and state law or municipal ordinance. (Amended, Ord No 05-10).

Subd. 2. Notice and hearing. Within 20 days of receipt of the written report and recommendation by the chief of police, the city clerk to cause to be published in the official newspaper, ten days in advance, a notice of a hearing to be held by city council, setting forth (i) the date, time and place when the hearing will be held, (ii) the name of the applicant, (iii) the premises where the business is to be conducted, (iv) the nature of the business, and (v) such other information as the city manager may direct. (Amended, Ord No. 05-10).

Subd. 3. Council decision. The council will consider the application and the recommendations of the police chief and city clerk. The city council will render a decision, by a majority vote, denying or approving the application, giving the reasons therefor. (Amended, Ord 03-22) (Amended, Ord No 05-10)

1205.07. Fee. Subdivision 1. Imposition. The investigation fee for an on-sale intoxicating liquor license is set by the council from time to time by resolution. The amount of the fee is set in Appendix B.

Subd. 2. Additional fee. If an additional investigation is required the licensee must pay an additional investigating fee established by the council by resolution. The fee is set in Appendix B.

Subd. 3. Refund; limited. This investigation fee is not refundable except to the extent that the city does not incur investigating costs in a like amount, in which case the balance, as determined by the city manager is refundable.

Subd. 4. Exception. The investigation fee does not apply to (i) special licenses for Sunday liquor sales, or (ii) a temporary license.

1205.09. Issuance of license. Subdivision 1. Term. A license is issued to the applicant only. Licenses are issued only for the premises described in the application. Licenses expire annually on December 31. License renewal is subject to the license provisions described in Section 1005 Licensing Procedures. (Amended, Ord 02-05)

Subd. 2. Building under construction; issuance delayed. Where a license is granted for premises where the building is under construction or otherwise not ready for occupancy, the city clerk may not issue the license until a certificate of occupancy has been issued and the building is ready for occupancy.

1205.11. Notice to commissioner. The city clerk must, within ten days after the issuance of a license, submit to the commissioner the full name and address of each person granted a license, the trade name, the effective license date, and the date expiration of the license. The clerk must also submit to the commissioner a change of address, transfer, cancellation or revocation of any license by the council during the license period.

1205.13. Renewal. Subdivision 1. An application for the renewal of intoxicating liquor license must be made at least 30 days prior to the date of the expiration of the license and must be made in the form as the council may require. If, in the judgment of the council, good and sufficient cause is shown by an applicant to file for a renewal within the time provided herein, the council may, if the other provisions of this chapter are complied with, grant the application. (Amended, Ord 04-02)

Subd. 2. Foreign corporation. A foreign corporation must file a current certificate of authority.

Subd. 3. Political contributions. When a licensee submits an application for renewal of a license, the applicant must state the nature or amount of any contribution made for campaign or political purposes, the person to whom the contribution was made and the person or organization for whom intended.

Subd. 4. (Deleted, Ord 04-02)

Subd. 5. Financial. At the time of application for renewal of a license, the applicant must submit to the city clerk a written statement by a certified public accountant, showing compliance Section 1205.01, subdivision 2, an Section 1210.02, Subdivision 2 of the city code. (Amended, Ord 04-02)

Subd. 6. Fees. The annual license fee is set by Appendix B.

1205.15. Transferability. A transfer of license is not permitted from place to place or person to person without complying with the requirements of an original application and without approval by the council, except as provided in this subsection.

- (a) Where a new application is filed as a result of incorporation by an existing licensee and the ownership and control of, and the interest in the license are unchanged, no additional license fee will be required, but at the time of any such incorporation the form requesting information required of a corporation in an initial application for a license must be properly completed, executed and verified and must be submitted to the city clerk. The contents of the application must be investigated as the city manager deems necessary. The investigation fee is set by the council from time to time by resolution.
- (b) Where a new application is filed for a transfer of license from place to place and it is for premises where the building was not ready for occupancy at the time of the original application and the new application is filed within 90 days after approval of the original license by the council but before a certificate of occupancy for the original location has been issued, no additional license fee is required. The investigation fee is set by the council from time to time by resolution.

1205.17. Excess storage. With the approval of the council and the commissioner, a licensee may store excess stocks of intoxicating liquor in places other than the licensed premises. The place of storage must be located within the city. The location and address of the storage place, the length of time it is proposed to store intoxicating liquor in such place, the quantity of such liquor stored and removal from the storage place must be reported in writing to the city clerk at least three days prior to the initiation of storage.

1205.19. Persons ineligible for intoxicating liquor licenses. Subdivision 1. A license for an on-sale intoxicating liquor license may not be granted to or held by:

- (a) a person made ineligible for the license by state law;
- (b) a person who is directly or indirectly interested in any other establishment in the city to which an on-sale license has been issued under this chapter: a person may not own an interest in more than one establishment or business for which an on-sale license has been granted;
- (c) a corporation that employs a manager who is not eligible under the provisions of this chapter;
- (d) a spouse of a person ineligible for a license under the provisions of this chapter;
- (e) a person, who in the judgment of the council, is not the real party in interest or beneficial owner of the business operated or to be operated under the license;
- (f) a person not a resident of the metropolitan area as defined by Minnesota Statutes, section 473.121, subdivision 2;
- (g) a person who has management responsibilities at more than one retail liquor establishment in the city;
- (h) a partnership, the managing or general partners of which, according to the partnership agreement, are entitled to participate in the management of the business, which partners are not residents of the metropolitan area at the date of the application for the license, or if any such partner has management responsibilities at more than one retail liquor establishment in the city; or
- (i) a corporation where the person to whom the corporation has delegated the management, general conduct, and control of the affairs of the establishment to be licensed is not a resident of the metropolitan area at the time of the application for the license, or if such manager has management responsibilities at more than one retail liquor establishment in the city.

Subd. 2. Establishing residence. The time for establishing residence within the metropolitan area may for good cause be extended by the council.

1205.21. Places ineligible. A license for the on-sale of intoxicating liquor may not be issued for:

- (a) premises or any business ineligible for the license under state law;

- (b) premises, on which taxes, assessments or other financial claims of the state of Minnesota are delinquent or unpaid: in the event an action has been commenced pursuant to the provisions of Minnesota Statutes, chapter 278, which action questions the amount of or the validity of taxes, the council may, on application by the licensee, waive strict compliance with this provision: no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after becoming due;
- (c) premises owned by a person to whom a license may not be granted under this chapter, except any owner who is an underaged person, a person who is not a citizen of the United States or a resident alien, or a person who has been convicted of a crime other than a violation of Minnesota Statutes, chapter 340A;
- (d) premises which has a common entrance or exit between any two establishments licensed under this chapter, except that a public concourse or public lobby is not to be construed as a common entrance or exit;
- (e) a place where the proposed use of the land is restricted by the zoning code and other proceedings or legal processes regularly had for that purpose;
- (f) any premises within 100 feet of the central place of worship of any church, the 100 feet being measured in a straight line from the main entrance of the premises sought to be licensed to any entrance to the central place of worship of the church: for purposes of this subsection a church has only one central place of worship as determined by the council, and the premises sought to be licensed has only one main entrance as determined by the council: the construction of a central place of worship of any church within the prohibited area or a change in location of the existing central place of worship after the original license application has been granted, does not alone, render the premises ineligible for renewal of the license; or
- (g) premises within 100 feet of the boundary lines of a school building, school grounds, school athletic fields, or a public park: the 100 feet being measured beginning at the main entrance of the premises sought to be licensed to any point of said boundary lines: for the purpose of this subsection, the premises sought to be licensed has only one main entrance as determined by the council.

1205.23. Conditions of intoxicating liquor licenses. Subdivision 1. Other laws apply. Except as otherwise provided in this chapter, an intoxicating liquor license is granted subject to the conditions of the provisions of this chapter, other applicable provisions of this code and state law.

Subd. 2. Off-sale. An on-sale licensee may not sell intoxicating liquor off-sale.

Subd. 3. Prohibited persons. Intoxicating liquor may not be sold or furnished or delivered to anyone who, by physical appearance and mannerisms, appears to be in a state of intoxication; to any habitual drunkard; to a person under 21 years of age or to a person to whom the sale is prohibited by state law.

Subd. 4. Pool halls. (Deleted, Ord. No. 98-19)

Subd. 5. Manufacturer's interest. Equipment or fixtures in a licensed place may not be owned in whole or in part by any manufacturer or distiller of intoxicating liquor except such as shall be expressly permitted by state law.

Subd. 6. Federal tax stamp. A licensee may not apply for or possess a federal wholesale liquor dealers special tax stamp or a federal gambling stamp.

Subd. 7. Spirits. A licensee may not keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.

Subd. 8. Records. The business records of the licensee, including federal and state tax returns, must be available for inspection by the city manager, or other duly authorized representative of the city or the council at all reasonable times on reasonable notice.

Subd. 9. Ownership. Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws or partnership agreement, as the case may be, must be submitted to the city clerk within 30 days after such changes are made. Notwithstanding the definition of the term "interest" in the case of a corporation, the licensee must notify the city clerk when a person not listed in the application acquires an interest which, together with that of the person's spouse, parent, brother, sister, or child, exceeds 5% and must give all information about that person as it required of a person pursuant to the provisions of subsection 1200.07.

Subd. 10. Restaurants: hotels. A restaurant must be conducted in such a manner that a principal part of the business for a license year is the serving of foods. A hotel must be conducted in such a manner that, of that part of the total business attributable to or derived from the serving of foods and intoxicating liquors, the principal part of the business for a license year is the serving of food.

Subd. 11. Original package. A licensee may not sell, offer for sale, or keep for sale, intoxicating liquors in any original package which has been refilled or partly refilled. A licensee may not directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the licensed premises by the licensee of any intoxicating liquor in the original package differing in composition, alcoholic content, or type than the liquor received from the manufacturer or wholesaler from whom it was purchased, is prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

Subd. 12. Hotels: guest rooms. Sales of intoxicating liquor may not be made to or in a guest room of a hotel unless:

- (a) the rules of the hotel provide for the service of meals in guest rooms;
- (b) the sale of such intoxicating liquor is made in the manner that the on-sale of intoxicating liquor is required to be made;
- (c) such sale accompanies and is incident to the regular service of meals to guests therein; and
- (d) the rules of the hotel and the description, location and number of such guest rooms are fully set out in the application for the on-sale of intoxicating liquor license.

1205.25. Insurance and bond. Subdivision 1. Minnesota Statutes. In addition to complying with and being subject to the financial responsibility requirements of Minnesota Statutes, section 340A.409, it is the continuing condition of any on-sale intoxicating liquor licensee to comply with the conditions of this subsection.

Subd. 2. Liability insurance. At the time of filing the license application the licensee must provide evidence of insurance coverage from an approved carrier in the amount of not less than \$1,000,000 combined single limit (CSL) for general liability, liquor liability, and property claims and losses. The insurance shall be submitted to the clerk along with the application for the particular license. The insurance coverage must specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured may become obligated to pay by reason of liability imposed by law for injuries or damages to persons, other than employees, including the liability imposed upon the insured by reason of Minnesota Statutes, section 340A.801. The liability insurance policies must provide that no cancellation for any cause can be made either by the insured or the insurance company without first giving the written notice required by law, addressed to the city clerk. The policy must be conditioned that the insurer will pay, to the extent of the principal amount of the policy, any damages for death or injury caused by, or resulting from the violation of any law relating to the requirements for which the license has been granted. The licensee and the city must be named as joint insured on the liability insurance policy. (Amended, Ord. No. 96-03, Sec. 3)

Subd. 3. Bond required. At the time of filing an application for an on-sale intoxicating liquor license, the applicant must file a bond with corporate surety, or in lieu thereof, cash or United States government bonds shall be deposited with the city clerk. The bond, cash or government bonds will be in the amount of \$5,000 for an on-sale intoxicating liquor license and is deemed sufficient for the purpose of the issuance of a special license for Sunday liquor sales, provided the bond or the terms of such deposit are amended to include periods during which the licensee is operating under a special license for Sunday liquor sales.

Subd. 4. Approval of bond or insurance. The surety bonds or insurance policies required by this subsection are subject to the approval of the council.

Subd. 5. Procedure where cash or government bonds are used. If the applicant uses cash for security, the cash must be deposited with the city clerk. If United States government bonds are permitted and are used as security, an assignment or agreement must accompany them and they must be filed with the city clerk. The licensee may clip and take all interest bearing coupons thereto attached as they become due.

Subd. 6. Surety of insurance companies. The surety on a bond, or the insurer on a liability insurance policy, must be a surety company or insurance company, duly licensed to do business in the state of Minnesota. The bond and liability insurance policy must be approved as to form and execution by the city attorney. Surety bonds or liability insurance policies, when approved by the proper city or state officers, must be deposited with city clerk.

Subd. 7. Terms of bond. Bonds must be conditioned as follows:

- (a) the licensee will obey the law relating to the licensed business;
- (b) the licensee will pay to the city when due all taxes, license fees, penalties and other charges provided by laws;
- (c) in the event of violation of any law relating to the business for which the license has been granted for the sale of liquor, the bond will be forfeited to the city;
- (d) the licensee will pay, to the extent of the principal amount of such bond, any damages for death or injury by, or resulting from, the violation of any law relating to the business for which the license has been granted, and that such recovery may be had also against the surety on the bond; and
- (e) approval by the council.

Subd. 8. Benefit of bond. The bond is for the benefit of the city, as obligee, and of all persons suffering damages under the conditions set forth in subdivision 7. The amount specified in a bond is declared to be a penalty, and the amount recoverable will be measured by the actual damages. The surety may not be liable in excess of the penal amount of the bond. In case of forfeiture of the bond for violation of the law, the district court of Hennepin County may forfeit the penal sum of the bond to the city.

Subd. 9. Deposit of U.S. bonds. If United States government bonds are deposited with the city clerk instead of a bond with a corporate surety, the bonds must be accompanied by a properly executed assignment, in form approved by the city attorney, assigning the bonds to the city, to be held subject to the conditions, forfeiture and penalties provided by the laws of the state of Minnesota and this chapter. The assignment must contain a stipulation and agreement that the bonds must remain with the city clerk, subject to the terms and conditions of the assignment and state laws, during the term of the license in connection with which such government bonds may, with the approval of the council, be returned by the city clerk to the licensee.

Subd. 10. Deposit of cash. If the applicant deposits cash in lieu of surety bond, the deposit must be accompanied by a written agreement and assignment upon the part of the licensee, in form approved by the city attorney by which the licensee assigns the deposit to the city, to be held by the city clerk subject to the conditions, forfeitures, and penalties required by the laws of the state and this chapter, for a period of the license in connection with which such deposit is made, and for three years thereafter, at which time the deposit may be returned to the licensee by the clerk with the approval of the council.

Subd. 11. Affidavit required for return of U.S. bonds or cash. Upon application for return of United States government bonds or cash, the licensee must file with the city clerk an affidavit stating that no action or proceeding has been commenced in a court for the forfeiture of the bonds or deposit, or for damages to any person or persons under the terms and conditions thereof, and that the licensee has no knowledge of any existing claim or cause of action under the terms and conditions of the assignment and agreement relating to the government bonds or cash deposit.

1205.27. Licensing of employees. (Deleted, Ord No. 03-13)

Subd. 2. Application. An application for a license is filed with the city clerk upon forms provided by the city. The application must be verified under oath and contain, in addition to other information required from time to time by the council, the following information:

- (a) the names and addresses of two residents of Hennepin County, Minnesota, who have known the applicant for a period of two years and who will vouch for the sobriety, honesty, and general good character of the applicant;
- (b) a concise history of the applicant's previous employment; and
- (c) the record, if any, of arrests of convictions for crimes and misdemeanors other than petty misdemeanor traffic offenses.

Subd. 3. Fees. The annual license fee is set by Appendix B. The fee must be paid prior to the issuance of the license. Licenses expire annually on June 30. Applications for renewal of an existing license must be made at least 15 days prior to the date of the expiration of the license.

Subd. 4. Investigation. The application must be referred to the police department which must investigate the facts set forth in the application and make a written report thereon at the earliest practicable time. If the police department recommends that the person be licensed, the city clerk must issue the license forthwith. If the police department makes a recommendation that the license not be issued, the applicant, upon written request within 15 days of the date of the recommendation, is entitled to a hearing before the council and may offer evidence supporting issuance of the license.

Subd. 5. Violation of law. A person who has committed an act that is a willful violation of Minnesota Statutes, chapter 340A and acts amendatory thereto may not be granted a license.

Subd. 6. Revocation. A license issued hereunder may be revoked for any violation and conviction of this chapter or for conviction of a crime or misdemeanor involving moral turpitude regardless of whether the conviction is subject to provisions of Minnesota Statutes, section 609.135.

Section 1210 – On-sale Wine Licenses

1210.01. On-sale wine licenses. Subdivision 1. Issuance. Upon approval of the commissioner, on-sale wine licenses may be issued by the City to restaurants that permit the sale of wine not exceeding 14 percent alcohol by volume for consumption on the licensed premises only in conjunction with the sale of food. Wine licenses may be issued by the city clerk upon receiving written approval of the commissioner.

Subd. 2. Restaurant. "Restaurant" for the purpose of the on-sale of wine only, means an establishment (i) that is under the control of a single proprietor or manager, (ii) where meals are regularly served at tables to the general public, (iii) which employs an adequate staff for the usual and suitable services of its guests (iv) that provides for seating not fewer than 50 guests at one time for meals, (v) whose gross receipts during each license year from the sale of food and nonalcoholic beverages are not less than 70% of its total gross receipts from the sale of all food and beverages; and (vi) where the premises sought to be licensed and the immovable fixtures located thereon has a fair market value of at least \$200,000. In determining the fair market value to assign to the establishment sought to be licensed, the council may rely upon real estate tax information and other factors it deems appropriate. (Amended, Ord. No. 99-06)

Subd. 3. Restrictions applicable. Except as otherwise provided in this chapter, restrictions imposed by this chapter relating to the on-sale of intoxicating liquor apply to on-sale wine licenses.

Subd. 4. Renewal. When an application is made for a renewal of an on-sale wine license, the applicant must file with the city council a statement made by a certified public accountant that shows (i) the gross revenues from the sale of food and nonalcoholic beverages and (ii) the gross revenues from the sale of alcoholic beverages including 3.2 malt liquor at the restaurant for the 12 month next preceding the date of filing the renewal application. (Amended, Ord. No. 97-13, Sec. 3)

Subd. 5. Number of licenses. No more than five on-sale wine licenses may be issued by the city at one time. This number is in addition to, and does not reduce the number of on-sale intoxicating liquor licenses otherwise permitted.

Subd. 6. No bars. A restaurant possessing an on-sale wine license may not have a bar or other similar place not used primarily for serving food at which alcoholic beverages are served.

Subd. 7. Hours and days of operation. An on-sale wine establishment may not serve or sell wine to the public during hours when the sale of intoxicating liquor is prohibited by Minnesota Statutes. No special license for Sunday liquor sale is required for the sale of wine on Sundays. The council may restrict a particular license to the sale of wine on days other than Sundays. It is unlawful for wine to be drunk, consumed, served, kept, displayed, or permitted to be on or in any table, booth, bar, or other place in such licensed premises, except the stock of wines stored therein during such times on the premises in such portions thereof as are accessible only to the licensee and the licensee's employees, at which times it is unlawful for wine to be sold. (Amended, Ord No. 03-04)

Subd. 8. Sales of intoxicating malt liquor. A holder of an on-sale wine license issued pursuant to this section who is also licensed to sell 3.2 percent malt liquors at on-sale pursuant to section 1215, may sell intoxicating malt liquors at on-sale without an additional license. (Added, Ord. No. 99-06)

Subd.9. Term and Fees. Licenses expire annually on December 31. License renewal is subject to the license provisions described in Section 1005 Licensing Procedures. The license fee is set by Appendix B. (Amended, Ord. No. 99-06), (Amended, Ord 02-05)

Section 1215 - 3.2 Malt Liquor Licenses
(Amended, Ord. No. 97-13, Sec. 4)

1215.01. 3.2 malt liquor licenses. Subdivision 1. On-sale. On-sale 3.2 malt liquor licenses permit the on-sale of 3.2 malt liquor and may only be issued to restaurants, hotels, clubs, and establishments used exclusively for the sale of 3.2 malt liquor with the incidental sale of tobacco and soft drinks. (Amended, Ord. No. 97-13, Sec. 5)

Subd. 2. Off-sale. Off-sale 3.2 malt liquor licenses permit the sale of 3.2 malt liquor at retail in the original package for consumption off the licensed premises only. (Amended, Ord. No. 97-13, Sec. 5)

Subd. 3. Restaurant. The term "restaurant" for purposes of the on-sale of 3.2 malt liquor has the meaning given by Minnesota Statutes, section 340A.101. (Amended, Ord. No. 97-13, Sec. 5)

Subd. 4. Temporary license. A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale of 3.2 malt liquor. A temporary license under this subdivision authorizes the on-sale of 3.2 malt liquor for the date and time specified in the license, and upon any other terms set by the council. The on-sale of 3.2 malt liquor under this section may take place only on the premises specified in the license. (Amended, Ord. No. 97-13, Sec. 5)

1215.03. Payment and refund of fees. Subdivision 1. Timing. An application for a 3.2 malt liquor license must be accompanied by cash or a cashier's check for payment in full of the license fee. Fees are paid into the general fund. The fees are set by Appendix B. (Amended, Ord. No. 97-13, Sec. 6)

Subd. 2. Rejection. Upon rejection of any application for a license under this section, the city clerk must refund the license fee.

Subd. 3. Pro rata fee. If the application is for a portion of the license year, a license may be issued for the remainder of the year for a pro rata fee. In computing the fee, any unexpired fraction of a month is counted as one month.

Subd. 4. Refund of fee after issuance of license. No part of the fee paid for a retail 3.2 malt liquor license may be refunded except when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (a) destruction or damage of the licensed premises by fire or other catastrophe;
- (b) the licensee's death;
- (c) a change in the legal status of the city making it unlawful for the licensed business to continue;
- (d) the business ceases to be lawful for a reason other than a license revocation; or
- (e) the licensee ceases to carry on the licensed business under the license. (Amended, Ord. No. 97-13, Sec. 6)

Subd. 5. Application for. Application for a refund under this subsection must be made to the council within 60 days from the happening of one of the events enumerated in subdivision 4. Refunds will be made on a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis.

1215.05. Granting 3.2 malt liquor licenses. Subdivision 1. Investigation. The council must investigate, or cause to have investigated, all facts set out in the application. After the investigation and after notice and hearing the council may grant or refuse to grant the application. (Amended, Ord. No. 97-13, Sec. 7)

Subd. 2. Notice. Notice of hearing must be given by publication one time in the official city newspaper. The notice must state the date, time and place of the hearing, which may not be less than three days subsequent to the date of the publication of the notice. The notice must also set forth the name of the applicant, the establishment to which it is proposed that the license be issued, and the address where the license presides.

Subd. 3. Hearing. Opportunity must be given to any person to be heard for or against the issuance of the license at a time, place and manner as set forth in the notice. A hearing is not required for an on-sale permit issued to a club if waived by the council.

1215.07. Duration; expiration. Subdivision 1. A 3.2 malt liquor license is issued for a period of one year. If a portion of the license year has elapsed when application is made, a license may be issued for the remainder of the year. Licenses expire annually on December 31. The license may be prorated. License renewal is subject to the license provisions described in Section 1005 Licensing Procedures. (Amended, Ord. No. 97-13, Sec. 8) (Amended, Ord 02-05)

Subd. 2. Renewal. The same procedure applies for the renewal of a license as for the original issuance of the license. The council may dispense with notice and hearing.

1215.09. Transferability of license. Subdivision 1. Person and premises licensed. A license for 3.2 malt liquor is issued to the applicant only and is not transferable. A license is issued only for the premises described in the application and is not transferable to another place without the written approval of the council. (Amended, Ord. No. 97-13, Sec. 9)

1215.11. Persons ineligible. Subdivision 1. A 3.2 malt liquor license may not be granted to or held by:

- (a) a person ineligible for such a license under state law;
- (b) a person who has been convicted of a felony or of violating any law or local ordinance relating to the sale, manufacture or transportation of intoxicating liquor;
- (c) a manufacturer of 3.2 malt liquor or a person who has an interest in or is in control of any place where 3.2 malt liquor is manufactured;

- (d) a person who is a holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at such place, or a person who becomes a holder during the period of the license; or
- (e) a person who is not the proprietor of the establishment for which the license is issued. (Amended, Ord. No. 97-13, Sec. 10)

1215.13. Places ineligible. A 3.2 malt liquor license may not be issued for:

- (a) a premises or business ineligible for a license under state law;
- (b) a premises where a former licensee has been convicted for the violation of this chapter, or of the state liquor law, chapter 340A, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation;
- (c) a premises where there are restrictions against commercial use by the zoning code and other proceedings or legal processes regularly had for that purpose. (Amended, Ord. No. 97-13, Sec. 11)

1215.15. Conditions. Subdivision 1. Other laws apply. This code and state law and the conditions of this subsection apply to retail 3.2 malt liquor licenses. (Amended, Ord. No. 97-13, Sec. 12)

Subd. 2. Inspection. A police officer or properly designated employee of the city may enter, inspect and search the licensed premises during business hours, or when employees are on the premises, without a search and seizure warrant and they may seize all intoxicating liquor and/or 3.2 malt liquor found on the licensed premises in violation of the provisions of this chapter or law. The inspection may also be made to insure that the premises are maintained in a sanitary condition. Any private club or public place allowing the consumption or display of intoxicating or 3.2 malt liquor that requires the use of a key, password, passkey, passcard, or other indicia of membership and access; shall provide the chief of police with such indicia of membership to be used only for the purpose as set forth in this section. Refusal to permit such inspection is a violation of this ordinance and grounds for discipline of the licensee, which may include revocation of the license. (Amended, Ord No. 03-04)

Subd. 3. Intoxicating liquors on the premises. Except as otherwise provided in this chapter, a licensee not licensed to sell intoxicating liquor may not sell, permit or suffer the consumption or the display of intoxicating liquor on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee is prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of liquids for the purpose of mixing with intoxicating liquors is prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this chapter.

Subd. 4. Conflicting interests. A manufacturer or wholesaler of 3.2 malt liquor may not have any ownership or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes, chapter 340A. A retail licensee and manufacturer or wholesaler of 3.2 malt liquor may not be parties to an exclusive purchase contract. A retail licensee may not receive any benefits contrary to law from a manufacturer or wholesaler of 3.2 malt liquor and may not confer any benefits contrary to law upon a retail licensee. (Amended, Ord. No. 97-13, Sec. 12)

Subd. 5. Federal retail liquor dealers tax stamp. A licensee may not sell 3.2 malt liquor while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless the licensee is licensed under the laws of Minnesota to sell intoxicating liquors. (Amended, Ord. No. 97-13, Sec. 12)

Subd. 6. On-sale: separate rooms. An on-sale license entitles the holder thereof to sell 3.2 malt liquor in a separate room of the licensed premises for banquets or dinners at which not less than six persons are present. (Amended, Ord. No. 97-13, Sec. 12)

Subd. 7. Partitions and obstructions. Windows in the front of any place licensed for on-sale 3.2 malt liquor sales must be of clear glass and a view of the whole interior may not be obstructed by screens, curtains or partitions. There may be no partition, box, stall, screen or other device which obstructs the view of any part of the room from the general observation of persons in the room. Partitions, subdivision, or panels not higher than 48 inches from the floor are not considered obstructions. (Amended, Ord. No. 97-13, Sec. 12)

Subd. 8. Insurance. Compliance with financial responsibility requirements of Minnesota Statutes, section 340A.409, and with the requirements set forth in subsection 1205.25 of this chapter is a continuing condition of a license granted pursuant to this section.

Section 1220 - Enforcement, Prosecution and Penalties - Beer and Liquor

1220.01. Enforcement. Authorized police officers are directed (i) to enforce the provisions of this chapter; (ii) to search the premises and to seize evidence of violations of this chapter and violations of relevant Minnesota Statutes; and (iii) to preserve such evidence against any persons alleged to be violating this chapter or law; and to prepare the necessary processes and papers therefor in accordance with this chapter and law.

1220.03. Prosecution. In a prosecution for a violation of the provisions of Minnesota Statutes incorporated herein by reference relating to the sale or furnishing of alcoholic beverages to persons under the age of 21 years, and in a proceeding before the council with respect thereto, the fact that the underaged person involved has obtained and presented to the licensee, employee or agent, proof of age as required by Minnesota Statutes, section 340A.503, subdivision 6 from which it appears that the person was 21 years of age and was regularly issued such proof of age documentation, is prima facie evidence that the licensee, agent or employee is not guilty of a violation of this chapter and is conclusive evidence that a violation, if one has occurred, was not willful or intentional.

Section 1225 - Consumption and Display:
Intoxicating Liquor

1225.01. Statutes adopted by reference. Minnesota Statutes, section 340A.414, regulating the licensing of establishments for the consumption and display of intoxicating liquor, are adopted by reference.

1225.03. Permit issuance. The issuance of a permit by the city under this section and pursuant to Minnesota Statutes, section 340A.414, permitting the consumption and display of intoxicating liquor, is subject to all of the provisions (not inconsistent with the purpose of section 340A.414) relating to intoxicating liquor licenses issued under this chapter.

1225.05. Fee: term. The additional fee for a permit issued pursuant to this section is set by Appendix B. The permit expires as determined by council.

Section 1230 - Municipal Liquor Dispensary

1230.01. Municipal liquor dispensary. Subdivision 1. Established and continued. The municipal liquor dispensary established pursuant to council resolution is established and continued, subject to the provisions of law and this code.

1230.03. Locations. The municipal liquor dispensary may be located at a suitable place or places in the city as the council determines. Location sites and facilities may be leased or owned by the city.

1230.05. Regulations: manager. The operations of the municipal liquor dispensary is under the direction of a manager selected by the city manager. Policies relating to the operation of the municipal liquor dispensary are determined by the council.

1230.07. Hours. The municipal liquor dispensary is open for business only during the days and hours and to the extent that the sale of alcoholic beverages is authorized by law.

1230.09. Payment for merchandise. Checks may be accepted in payment for merchandise, provided the checks are only for the purchase price of the merchandise. Credit cards issued by national credit companies that have entered into credit agreements with the city may also be accepted in payment for merchandise. No other form of credit may be advanced by the municipal liquor dispensary.

1230.11. Gambling. It is unlawful to keep, possess or operate in any part of the municipal liquor dispensary any gambling device except lawful gambling devices as defined in Minnesota Statutes, chapters 349 and 349A.

1230.13. Receipts and disbursements. The handling of municipal liquor dispensary receipts and disbursements must comply with the procedure described by law for the receipts and disbursements of the city funds generally.

1230.15. Audit. The council must provide as soon as possible following the close of each fiscal year for an audit of the accounts of the municipal liquor dispensary for that fiscal year by the public examiner or a qualified public accountant.

1230.17. Illegal acts; sale prohibited. Intoxicating liquor may not be sold: (a) off-sale at retail in the city except at the municipal liquor dispensary, or (b) by any person not employed by the municipal liquor dispensary.

1230.19. Persons under the age of 21. The provisions of Minnesota Statutes, section 340A.503 and 340A.412, subdivision 10, are adopted by reference and apply to the municipal liquor dispensary.

1230.21. Employees. An employee of the municipal liquor dispensary willfully violating any provision of this chapter or state law relating to gambling or the sale of alcoholic beverages may be discharged for such a violation.