

**CHAPTER 5**

**ALCOHOLIC BEVERAGES LICENSING AND REGULATION**

	<u>Page</u>
Section 1      Licensing and General Provisions .....	5-3
Section 2      General Unlawful Acts .....	5-13
Section 3      Beer Licensing and Provisions .....	5-17
Section 4      Liquor Licensing and Provisions .....	5-19
Section 5      Club License Regulations .....	5-23
Section 6      Municipal Dispensary .....	5-25
Section 7      Consumption and Display .....	5-27
Section 8      Production Facility Sales	5-29



## SECTION 1

### LICENSING AND GENERAL PROVISIONS

#### SECTION:

- 5-1-1: Violation a Misdemeanor
- 5-1-2: Definitions
- 5-1-3: Applications and Licenses Under this Chapter – Procedure and Administration
- 5-1-4: Renewal License Applications
- 5-1-5: Delinquent Taxes and Charges
- 5-1-6: Conditional Licenses
- 5-1-7: Premises Licensed
- 5-1-8: Unlawful Acts
- 5-1-9: Conduct on Licensed Premises
- 5-1-10: Sale by Employee
- 5-1-11: License Condition and Unlawful Act
- 5-1-12: Fixing License Fees
- 5-1-13: Financial Responsibility of Licensees
- 5-1-14: Insurance Certificate Requirements

**5-1-1: VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except otherwise stated in specific provisions hereof.

**5-1-2: DEFINITIONS.** As used in this Code, unless otherwise state in specific sections, the following works 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 Code.
- 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 at 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 (50) members; (2) has owned or rented a building or space in a building for more than one (1) 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 of 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 (3) years.
- G. “Commissioner” means the Minnesota Commissioner of Public Safety.
- H. “License” means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.
- I. “Licensee” means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.
- 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 (1/2) of one (1) 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” mean any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.
- S. “Restaurant” means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for at least fifty (50) guests.
- T. “Sale”, “Sell”, and “Sold” mean all barter and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.
- U. “Wholesaler” means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.
- V. “Wine” means a beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits, or honey, and also carbonated wine, wine made from condensed grape must, wine made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than one-half (1/2) of one (1) percent nor more than fourteen (14) percent alcohol by volume. (This definition includes so-called “wine coolers” with the alcoholic content limits stated herein.)
- W. “Brewery Tap Room” means an area accessory to a brewery for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises.
- X. “Brewery, Small” means a brewery that produces not more than twenty thousand (20,000) barrels of malt liquor in a calendar year as regulated by Minnesota Statutes, as may be amended.
- Y. “Brewpub” means a restaurant with a small brewery on the same premises intended for the service of malt liquor to the patrons of the restaurant.
- Z. “Cocktail Room” means an accessory facility to a microdistillery for the on-sale consumption of distilled spirits produced on the premises as allowed by Minnesota Statutes as may be amended.

AA. "Microdistillery means a distillery defined by the State in Statute Section 340A.101 producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

(Ord. 207, SS 11/23/15)

**5-1-3: APPLICATIONS AND LICENSES UNDER THIS CHAPTER – PROCEDURE AND ADMINISTRATION.**

- A. Application. All applications shall be made at the office of the City Clerk/Treasurer upon forms prescribed by the City, or if by the Commissioner, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of an alcoholic beverage license must include a copy of each summons received by the applicant during the preceding year under Minnesota Statutes, Section 340A.802.
- B. 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.
- C. Application and Investigation Fees. At the time the initial or transfer application is made, an applicant with payment of a fee to be considered an application and investigation fee, not refundable to the applicant, to cover the cost of the City in processing the application and the investigation of the applicant. No such fee shall be required of an applicant for a temporary beer license.
- D. Action.
1. Granting. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

2. Issuing. If an application is approved, the City Clerk/Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the City or the Commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.
3. Transfer. No license shall be transferable between persons or to a different location. Any change in individual ownership, incorporation, or substitution of partners is a transfer. It is unlawful to make any transfer in violation of this Subparagraph.
4. Refusal and Termination. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.
5. Public Interest. No license under this Chapter may be issued, transferred, or renewed if the results of any such investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest.
6. Revocation or Suspension. The Council shall revoke or suspend, for a period not to exceed sixty (60) days, a license granted under the provisions of this Chapter, or impose a civil fine not to exceed \$2000.00, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. The Council shall revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if such revocation is mandatory by Statute. If it shall be made to appear at the hearing hereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee service in person or by certified mail not less than fifteen (15) nor more than thirty (30) days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute,

the following shall also be grounds for such action: (1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

7. Corporate Applications and Licensees. A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Clerk/Treasurer in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty (30) days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other 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.
- E. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the City Clerk/Treasurer without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of the fee adopted by resolution of the Council for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.
- F. Posting. All licensees shall conspicuously post their licenses in their places of business.



G. Resident Manager or Agent. Before a license is issued under this Chapter to an individual who is a non-resident of the State, to more than one individual whether or not they are residents of the State, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the State as its manager or agent. Such resident manager or agent shall, by the terms of this written consent; (1) take full responsibility for the conduct of the licensed premises, and, (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to be a resident of the State or ceases to act in such capacity for the licensee without appointment of a successor, the licensee issued pursuant to such appointment shall be subject to revocation or suspension.

H. Persons Disqualified.

1. No license under this Chapter may be issued, or renewed, to: (1) a person not a citizen of the United States or a resident alien; (2) a person who within five years of the license application has been convicted of a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages; (3) 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; (4) a person under the age of twenty-one years; or, (5) a person not of good moral character and repute.
2. No person holding a license from the Commissioner as a manufacturer, brewer, or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the City unless otherwise permitted. (Ord. 207, SS 11/23/15)

**5-1-4: RENEWAL LICENSE APPLICATIONS.** Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

**5-1-5: DELINQUENT TAXES AND CHARGES.** No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or

installments thereof, or other financial claims of the City, are owed and are delinquent and unpaid.

**5-1-6:           CONDITIONAL LICENSES.** Notwithstanding any provision of law to the contrary, the Council may, upon finding of the necessity therefore, place such special conditions and restrictions, in addition to those stated in this Code, upon any license as it, in its discretion, may deem reasonable and justified.

**5-1-7:           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.

**5-1-8:           UNLAWFUL ACTS.**

- A.     Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.
- B.     Removal of Containers. It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing alcoholic beverages in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than twenty (20) minutes after the hour when a sale thereof can legally be made.
- C.     Closing. It is unlawful for any person, other than an on-sale licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales.
- D.     Exception. Section 5-1-8.C of this Code 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 alcoholic beverages, or engaging in bowling, or serving bowlers on such premises.

**5-1-9:           CONDUCT ON LICENSED PREMISES.** Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

**5-1-10: SALE BY EMPLOYEE.** Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

**5-1-11: LICENSE CONDITION AND UNLAWFUL ACT.**

- A. All premises licensed under this Chapter shall at all times be open to inspection by any police officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.
- B. It is unlawful for any licensee, or agent or employee of a licensee, to hinder to prevent a police officer from making such inspection.

**5-1-12: FIXING LICENSE FEES.** Except as otherwise specifically provided, all fees for licenses provided for in this Code, including, but not by way of limitation, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution shall be kept on file in the office of the City Clerk/Treasurer and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may categorize and classify, provided, that such categorization and classification shall be included in the resolution authorized by this Code.

**5-1-13: FINANCIAL RESPONSIBILITY OF LICENSEES.**

- A. Proof. No alcoholic beverage license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by Statute, by filing with the City:
  - 1. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) \$50,000.00 because of bodily injury to any one (1) person in any one occurrence, and, subject to the limit for one (1) person, in the amount of \$100,000.00 because of bodily injury to two (2) 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 (1) occurrence, and (2) \$50,000.00 for loss of means of support of any one (1) person in any one (1) occurrence, and subject to the limit for one (1) person, \$100,000.00 for loss of means of support of two (2) or more

persons in any one occurrence; an annual aggregate of \$300,000.00 may be included in the insurance coverage; or,

2. A bond of a surety company with minimum coverages as provided in Subparagraph A of this Subdivision; or,
  3. A certificate of the State Treasurer that the licensee has deposited with him/her \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00.
- B. Exception. This Code does not apply to on-sale beer licensees with sales of beer of less than \$10,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$20,000.00 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$10,000.00 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this Subdivision.
- C. Documents Submitted to Commissioner. All proofs of financial responsibility and exemption affidavits filed with the City under this Code shall be submitted by the City to the Commissioner.

**5-1-14: INSURANCE CERTIFICATE REQUIREMENTS.** Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Clerk/Treasurer 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 (30) days' written notice served upon the City Clerk/Treasurer. Cancellation or termination of such coverage shall be grounds for license revocation.

## SECTION 2

### GENERAL UNLAWFUL ACTS

#### SECTION:

- 5-2-1: Minors as Defined in Section 5-1-2
- 5-2-2: Gambling Prohibited
- 5-2-3: Consumption and Possession of Alcoholic Beverages on Streets, Public Property, and Private Parking Lots to Which the Public Has Access
- 5-2-4: Alcoholic Beverages in Certain Buildings and Grounds
- 5-2-5: Alcoholic Beverages – Certain Unlawful Acts
- 5-2-6: Nudity or Obscenity Prohibited

#### **5-2-1: MINORS AS DEFINED IN SECTION 5.01.**

- A. Consumption. It is unlawful for any:
  - 1. Licensee to permit any minor to consume alcoholic beverages on licensed premises.
  - 2. 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.
- B. Purchasing. It is unlawful for any:
  - 1. Person to sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.
  - 2. Minor to purchase or attempt to purchase any alcoholic beverage.
  - 3. Person to induce a minor to purchase or procure any alcoholic beverage.
- C. 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 a prima facie evidence of intent to consume it at a place other than the household of his/her parent or guardian.
- D. Entering Licensed Premises. It is unlawful for any minor, as defined in this Code, to enter licensed premises or the municipal liquor store for the purpose of purchasing or consuming any alcoholic beverages. It is not unlawful for any person who has attained the age of eighteen (18) years to enter licensed

premises for the following purposes: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of eighteen (18) to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

- E. Misrepresentation of Age. It is unlawful for a minor to misrepresent his/her age for the purpose of purchasing an alcoholic beverage.
- F. 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.

**5-2-2: GAMBLING PROHIBITED.** It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except such as are authorized by Statute or the City Code.

**5-2-3: CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS.** It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, or (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the Council. 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.

**5-2-4: ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.** It is unlawful for any person to introduce upon, or have in his possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, except for experiments in laboratories and except for those organization 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.

**5-2-5: ALCOHOLIC BEVERAGES – CERTAIN UNLAWFUL ACTS.** It is unlawful for any:

- A. Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.
- B. Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.
- C. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.
- D. Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.
- E. Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.
- F. Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

Source: City Code

Effective Date: 06-01-1990

**5-2-6: SECTION 5.80. NUDITY OR OBSCENITY PROHIBITED.**

- A. Definitions. As used in this Code, the following words and terms shall have the meanings stated:
  - 1. “Nudity” means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For the purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
  - 2. “Obscene performance” means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which a whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal description or narrative accounts of sexual conduct.
  - 3. “Obscenities” means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female

breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in content are clearly used for their bodily, sexual or excretory meaning.

4. "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being bettered, bound or otherwise physically restrained on the part of one so clothed.
  5. "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
  6. "Sexual excitement" means the condition of a human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.
- B. Unlawful Act. It is unlawful for any person issued a license provided for in this Code or permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.



## SECTION 3

### BEER LICENSING AND PROVISIONS

#### SECTION:

- 5-3-1: Beer License Required
- 5-3-2: Temporary Beer License
- 5-3-3: Hours and Days of Beer Sales
- 5-3-4: Strong Beer Sales in Restaurants Having Beer and Wine Licenses

**5-3-1: 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 to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the City.

#### **5-3-2: TEMPORARY BEER LICENSE.**

- A. Applicant. A club or charitable, religious, or non-profit organization shall qualify for a temporary on-sale beer license.
- B. Conditions.
  - 1. An application for a temporary license shall state the exact dates and place of proposed temporary sale.
  - 2. No applicant shall qualify for a temporary license for more than a total of fourteen (14) days in any calendar year.
  - 3. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000.00 for injury to any one person and \$100,000.00 for injury to more than one person, and \$10,000.00 for property damage, naming the City as an insured during the license period. Such license shall be issued only on the condition that the applicant will not sell in excess of \$10,000.00 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

**5-3-3: HOURS AND DAYS OF BEER SALES.** Hours and days of beer sales will be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law.

(Ord 228, SS, 05-15-17; Effective 07-01-17)

**5-3-4: STRONG BEER SALES IN RESTAURANTS HAVING BEER AND WINE LICENSES.** A restaurant that is the holder of both an on-sale wine license and an on-sale beer license may sell malt liquor containing more than 3.2 percent alcohol by weight (excluding so-called “wine coolers” which are covered by the wine definition) at on-sale without an additional license provided that the gross receipts of the establishment subject to the license are at least sixty (60) percent attributable to food sales. Failure to provide such information shall constitute grounds for revocation of the license. (Ord 78, SS, 11-3-2003)

## SECTION 4

### LIQUOR LICENSING AND PROVISIONS

#### SECTION:

- 5-4-1: Liquor License Required
- 5-4-2: Sunday Sales
- 5-4-3: Hours and Days of Liquor Sales
- 5-4-4: On-Sale Wine Licenses Required
- 5-4-5: Hours and Days of Sales by On-Sale Wine Licensees
- 5-4-6: Liquor and On-Sale Wine License Restrictions, Regulations and Unlawful Acts

**5-4-1: 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, (5) to sales by wholesalers to persons holding liquor licenses from the City, or (6) to the municipal liquor store. 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) restaurants; and, (2) clubs, or congressionally chartered veterans' organizations, provided that liquor sales will be made only to members and bona fide guests.

**5-4-2: SUNDAY SALES.** (Ord 72, SS, 6-16-2003)

- A. License Required. The electorate of the City having heretofore authorized the same at a general or special election, a Sunday on-sale liquor license may be issued to restaurants or clubs in conjunction with the sale of food, which have on-sale liquor licenses and which also have seating capacity for not less than fifty (50) guests at one time. Prior to issuance of such license, the applicant shall provide the City with proof of financial responsibility for Sunday sales.
- B. Hours of Sale. The hours of Sunday on-sale liquor sales shall be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law, provided that the license is in conformance with the Minnesota Clean Air Act.

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

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**5-4-3: HOURS AND DAYS OF LIQUOR SALES.** Hours and days of Liquor Sales will be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**5-4-4: ON-SALE WINE LICENSES REQUIRED.** It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of wine on-sale, as part of a commercial transaction, without a license 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 or off-sale liquor licenses from the City, (3) to sales by wholesalers to persons holding on-sale wine licenses from the City, or (4) to sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted.

**5-4-5: HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.** Hours and days of on-sales for wine will be as outlined in Minn. Stat. Sec. 340A.504 and other applicable state law except that no on-sales may occur after 1:00 AM until the beginning of the next morning sales as permitted by state law.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)

**5-4-6: LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.**

A. Limitations on Issuance of Licenses to One Person or Place.

1. No on-sale liquor license may be issued to any one person for more than one place in the City. Any person holding an interest on two (2) or more such licenses in the City shall be deemed to hold more than one license.
2. For the purpose of this Section, the term "interest": (1) includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who received money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail business; and, (2) does not include loans; rental agreements; open

accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least one hundred fifty (150) or more rental units holding a liquor license in conjunction therewith; or ten (10) percent or less interest in any other corporation holding a license.

3. In determining whether an “interest” exists, the transaction must have been bona fide and the reasonable value of the goods and things received as consideration for a payment to the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this Subdivision must be considered.
- B. Licenses in Connection With Premises of Another. A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this Chapter.
  - C. Employment of Minors. No person under eighteen (18) years of age may sell or serve liquor or wine on licensed premises.
  - D. Premises Eligible. On-sale wine licenses shall be granted only to restaurants as defined in this Code. Provided, however, for purposes of this Section, such restaurant shall have appropriate facilities for seating not less than twenty-five (25) guests at one time.
  - E. Investment. No on-sale liquor or wine license shall be granted to any person which does not have invested or does not propose to invest in the fixtures and structure of the licensed establishment, exclusive of land, at least \$300,000.00. The Council may provide for an independent appraisal, at the expense of the applicant, as an aid in determining such value. If this provision is not complied with within one (1) year from the date of issuance of the license, the same shall be grounds for refusal or revocation of the license. This provision shall not apply to a person who was a licensee on the effective date of this Section, or to the heirs, assigns, or successors of such licensee, or to any subsequent addition, enlargement, or alteration of such licensed premises.
  - F. Church and School Restriction. No license shall be granted for any building within three hundred (300) feet of any public elementary or secondary school structure or within three hundred (300) feet of any church structure. In measuring this distance, measurement shall be from the nearest door of the premises to be licensed to the nearest door of any school or church.



## SECTION 5

### CLUB LICENSE REGULATIONS

#### SECTION:

5-5-1: Club License Restrictions and Regulations and Unlawful Acts

#### **5-5-1: CLUB LICENSE RESTRICTIONS AND REGULATIONS, AND UNLAWFUL ACTS.**

- A. Definitions. The following terms, as used in this Code, shall have the meanings stated:
1. "Member" means any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his/her person.
  2. "Guest" means a person not a member of the club but present on the club licensed premises in the company of a host member.
  3. "Host Member" means a member who is entertaining a guest who is in the member's company at all times such guest is on the licensed premises.
- B. Daily Register. In addition to all other general provisions, restrictions and regulations set forth in this Code, relating to beer or liquor licensees, as the case may be, all club licensees shall keep a daily register showing the names of guests present and the name of the host member. Such register shall be open to inspection by police officers at all times.
- C. Unlawful Acts. The following are in addition to all other unlawful acts set forth in this Code relating to sales and purchases of beer and liquor, as the case may be:
1. It is unlawful for a club licensee to sell liquor or beer to any person not a member, or a bona fide guest of a member, of the licensed club.
  2. It is unlawful for any club licensee to serve beer or liquor to any non-member of the licensed club unless such non-member is a guest.
  3. It is unlawful for any person who is not a member, or a bona fide guest of a member, of the licensed club to purchase liquor or beer from the club.
  4. It is unlawful for any club licensee to hinder or prevent a police officer from determining compliance with this Code, and all other laws.

5. It is unlawful for any person to refuse, upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest or host member, or to give false, fraudulent or misleading information in response to such request.



## SECTION 6

### MUNICIPAL DISPENSARY

#### SECTION:

5-6-1: Municipal Dispensary

#### **5-6-1: MUNICIPAL DISPENSARY.**

- A. Establishment. A Municipal Dispensary is hereby established to be operated within the City for the sale of alcoholic beverages. Such Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the City. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary. All employees, including the Manager shall hold their positions at the pleasure of the Council.
- B. Dispensary Fund. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be paid, and from which all operating expenses shall be paid. Any surplus accumulating in this Fund may, from time to time, be transferred to the General Fund by resolution of the Council, and expended for any municipal purpose.



## SECTION 7

### CONSUMPTION AND DISPLAY

#### SECTION:

5-7-1: Consumption and Display

#### **5-7-1: CONSUMPTION AND DISPLAY.**

- A. 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.
- B. Consumption and Display Restrictions and Regulations.
1. Eligible Licensees. If the applicant is otherwise eligible, licenses may be issued only to (1) persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this Chapter or other law relating to the sale of 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.
  2. Unlawful Act. It is unlawful to sell liquor on licensed premises.
  3. 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.
  4. State Permit Required. Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.
  5. 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.
  6. Hours and Days. No licensee may permit a person to consume or display liquor, and no person may consume or display liquor between 1:00 AM

and 12:00 Noon on Sundays, and between 1:00 AM and 8:00 AM on Monday through Saturday.

## SECTION 8

### PRODUCTION FACILITY SALES

**5-8-1: Taproom License:** Taproom licenses may be granted only to a brewery licensed under Minn. Stat. 340A.601, subdivision 6, clause (c), (i) or (j) for on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. All relevant codes related to the serving of malt liquor shall be adhered to.

**5-8-2: Cocktail Room License:** Cocktail room licenses may be granted only to the holder of a microdistillery licensed under Minn. Stat. 340A.301, Subdivision 6c. A cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. All relevant codes related to the serving of liquor shall be adhered to.

**5-8-3: Brewpub License:** Restaurants otherwise licensed within this code may receive a brewpub license for the on-sale provision of malt liquor or beer produced on the site consistent with Minnesota State Statutes 340A.24.

**5-8-4: Small Brewer & Brewpub Off-Sale License:** Small breweries and brewpubs may receive a license for the off-sale consistent with Minnesota State Statutes 340A.28 and 340A.24 Subd 2.

Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time in Section 5-4-3. All malt liquor sold under this license shall be packaged in the manner required by Minnesota Statutes Section 340A.285 as may be amended. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 5-8-3, the brewer's total retail sales on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

**5-8-5: Sunday Sales:** Off-sale licenses granted pursuant to Section 5-8-4 may receive a Sunday sales license provided that the sales are limited to the legal hours for off-sale in the city for Sundays in Section 5-4-3 unless otherwise limited by holiday hours.

(Ord 228, SS 05-15-17, Effective Date 07-01-17)