

CHAPTER XII

SALE, CONSUMPTION AND DISPLAY OF LIQUOR AND BEER

Section 1200 - Intoxicating liquor

1200.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. "Intoxicating liquor" and "liquor" mean ethyl alcohol, distilled, fermented, spirituous, vinous and malt liquors containing in excess of 3.2% of alcohol by weight.

Subd. 3. "Sale" and "sell" and "sold" mean all barter, and all manners or means, of furnishing intoxicating liquor and including such furnishing in violation or evasion of law.

Subd. 4. "On sale" means the sale of liquor by the glass for consumption on the premises only.

Subd. 5. "Off sale" means the sale of liquor in original package in retail stores for consumption off or away from the premises where sold.

Subd. 6. "Package" or "original package" means any container or receptacle holding liquor, which container or receptacle is corked or sealed.

Subd. 7. "Hotel" means any establishment having a resident proprietor or manager, where in consideration of payment therefor food or lodging are regularly furnished to transients and which maintains for the use of its guests not less than ten guest rooms, with bedding and other suitable and necessary furnishings in each room, and which is provided with a suitable lobby, desk and office for registration of its guests, on the ground floor, and which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and as an integral part thereof a dining room with appropriate facilities for seating not less than 30 guests at one time, where the general public is, in consideration of payment therefor, served with meals at tables.

Subd. 8. "Restaurant" means any establishment, other than a hotel, under the control of a proprietor or manager, having appropriate facilities for the serving of meals to not less than 30 guests at one time and where meals are regularly furnished at tables to the general public and which employs an adequate staff to provide the usual and suitable service to its guests, and the principal part of the business of which is the serving of foods.

Subd. 9. "Exclusive liquor store" means an on sale or off sale or combination on sale or off sale establishment used exclusively for the sale of intoxicating liquor at retail and under the control of an individual owner or manager and as an incident thereof may also sell cigars, cigarettes, ice, all forms of tobacco, non-intoxicating malt beverages, and soft drinks at retail. An exclusive liquor store includes an on sale or combination on sale and off sale establishment operating a restaurant or selling food for consumption on the premises.

Subd. 10. "Club" means any corporation duly organized under the laws of the state of Minnesota for civic, fraternal, social or business purposes or for intellectual improvements or for the promotion of sports, or a congressionally chartered veterans organization, which must have more than 50 members, and which must for more than a year have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body. The fact that dancing is conducted in a hotel or restaurant must not make such place ineligible to receive a license hereunder, if such dance is incidental to the regular services of the hotel or restaurant.

Subd. 11. "Sunday sale" means the sale of liquor by the glass for consumption on the premises, in conjunction with the serving of food by the licensee, pursuant to a special license therefor issued by the city as authorized by state law.

Subd. 12. For purposes of this section, the term "minor" means a person under the age specified in Minnesota Statutes, section 340A.503.

Subd. 13. "On sale wine" means the sale of wine not exceeding 14% alcohol by volume in premises licensed under this section which meet the qualifications of Minnesota Statutes, section 340A.404, subdivision 5 and this section; an "on sale wine" license permits the sale of wine for consumption on the licensed premises only, in conjunction with the sale of food. (Amended, Ord. No. 99-07, Sec. 1)

Subd. 14. "Licensed premises" means the premises, building, establishment or location within a building which is the area where the city permits the sale of intoxicating liquor pursuant to the license required by section 1200.03 of this code. (Added, Ord. No. 2007-12, Sec. 1)

Subd. 15. "Smoking area" means a compact and contiguous exterior area connected to the licensed premises designated by the license and approved by the city, where the licensee is authorized to permit its patrons to smoke, and where the patron is permitted to consume intoxicating liquor previously purchased and/or delivered to the patron in the licensed premises. Intoxicating liquor, food, or non-intoxicating beverages may not be served or delivered to patrons in the smoking area by employees of licensee. The licensee must file a specific written request in the initial application for, or in an amendment to, the liquor license for permission to establish a smoking area addressing conditions outlined as follows:

- a) Fencing or screening
- b) Controlled access (entrance/exit obtained from inside building; emergency exit provision)
- c) Underage access prevention
- d) Size and type of area (dimensions; patio/deck/fenced area)

- e) Placement and aesthetics
- f) Rubbish
- g) Security and supervision
- h) Lighting and illumination
- i) Insurance
- j) Signage

The licensee must provide an operations plan and site plan with the application of the proposed smoking area to the city clerk for staff review and council approval. The smoking area must meet all zoning, building, and fire codes of the city. (Added, Ord. No. 2007-12, Sec. 2)

1200.03. License required. It is unlawful to sell liquor or keep it for sale without first obtaining a license therefor from the city and complying with the laws of the state of Minnesota, the regulations promulgated by the liquor control commissioner, appropriate regulations and statutes of the United States of America, and this section.

1200.05. Qualifications of applicant. A license may not be issued to a person other than a citizen of the United States who is of good moral character and repute, nor to any person who within five years prior to the application for such license has been convicted of a wilful violation of any law of the United States, or the state of Minnesota, or any local ordinance, with regard to the manufacture, sale, possession for sale or distribution of intoxicating liquor, nor to a person whose license under this section has been revoked for a wilful violation of any such laws or ordinances nor to a minor. A false material statement made in the application is grounds for revocation of the license.

1200.07. License procedure. Subdivision 1. Application. A person desiring a liquor license from the city must file with the city clerk a verified written application in the form prescribed by the liquor control commissioner of the state of Minnesota together with other additional information required by the city.

Subd. 2. Partnerships; corporations. A partnership must file with its application a certified copy of the articles of partnership. Any proposed change in such articles thereof must be reported to the city clerk 14 days prior to the date such change is made. A corporation must file with its application a certified copy of the articles of incorporation and by-laws. Any proposed change in either the articles or the by-laws of the corporation must be reported to the city clerk 14 days prior to the date such change is to be adopted by the corporation. In the case of a corporate application the application must also describe fully the relationship of the corporation to any other corporation including the name, business address, state of incorporation, names of stockholders, directors and officers thereof, but in the case of publicly held corporations the city manager may accept disclosure documents required by the Securities and Exchange Commission of the United States of America in lieu of such information.

Subd. 3. Insurance requirements; financial responsibility.

- a) Prior to the issuance of a license the applicant must file with the city clerk satisfactory evidence of adequate insurance coverage which also must meet the conditions specified in Minnesota Statutes, section 340A.409, as amended. The city must be named as an additional insured on the insurance policy or policies. The licensee must provide evidence of coverage in the form of a certificate of insurance complying with the most recent edition of the applicable ACORD forms (or similar insurance service organization forms), as approved by the city manager or designee. The licensee shall notify and identify the city to its insurance carrier(s) and require its insurance carrier(s) to provide the statutory cancellation notice if the policy is cancelled, not renewed or materially changed. Operation of a business licensed under this section without having on-going evidence on file with the city of the insurance required by this subdivision is grounds for revocation or suspension of the license. (Amended, Ord. No. 2011-5)
- b) Prior to the issuance of a license the applicant must file with the city clerk satisfactory evidence of financial responsibility. "Satisfactory evidence of financial responsibility" shall be shown by a certification under oath that the property taxes, public utility bills, and all state and federal taxes or other governmental obligations or claims concerning the business entity applying for the license are current, and that no notice of delinquency or default has been issued, or if any of the financial obligations stated in this subsection are delinquent or in default, that any such delinquency or default is subject to a payment plan or other agreement approved by the applicable governmental entity. "Satisfactory evidence of financial responsibility" as required by this subsection shall in addition be shown by any individual applicant and all individual owners and/or shareholders of the business entity.

Operation of a business licensed under this section without having on-going evidence on file with the city of the financial responsibility required by this subdivision is grounds for revocation or suspension of the license. (Added, Ord. No. 2011-5)

1200.09. Investigation of license applicants. Subdivision 1. Duties of chief of police. A new or renewal application for a license to sell intoxicating liquor will be referred to the chief of police for a CCH Investigation as authorized by section 311 of the city code, of each individual. Every individual or person having any beneficial interest in the license must be so investigated. The chief must make necessary inquiry and list all violations of federal and state law or municipal ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. The chief must report the findings and comments to the manager who must order or conduct such additional investigations as the manager deems necessary or as the council directs. (Amended, Ord. No. 2007-11, Sec. 9)

Subd. 2. Fees. Every new applicant must pay to the city treasurer the investigation fees set by appendix IV. The fees must be paid for each individual when more than one individual has a beneficial interest in the license whether a partnership, corporation or a group by whatever arrangement, to pay for the cost of investigation of each additional individual having a beneficial interest in a retail liquor license regardless of the nature and extent of such interest.

1200.11. Burden of proof. Subdivision 1. Facts. The applicant or holder of a retail liquor license has the burden or proving to the council the following:

- a) That each individual having a pecuniary interest or a beneficial interest in the license is a fit person of good character and integrity.
- b) That the person applying for said license or holding the same is in fact the true proprietor thereof and that each individual having any interest in the license has in fact been listed correctly on the application, and the council has been accurately apprised at least 14 days prior to any change of any and all changes in the person holding the license regardless of whether an individual, partnership, corporation or group by whatever arrangement organized.
- c) That the premises are suitable for the type and kind of license requested.
- d) That the applicant or licensee will be responsible for its agents, employees and servants and for the conduct of its place of business and for conditions of sobriety and order therein.
- e) That the provisions of this chapter and other city ordinances, state and federal law will be complied with.

Subd. 2. Failure to disclose. In the event that the applicant for a license, or a holder of an existing license fails to make full disclosure to the council, manager or chief or any officer of the city so designated by them, or fail to promptly produce books, records, leases or subleases or to promptly correct any deficiency in the operation or management of the premises as requested, then such refusal or non-compliance may be sufficient grounds of itself for denial of the new license, revocation or suspension of an existing license or refusal to renew an existing license.

1200.13. License year. Pro rata licenses may be issued to new licensees for a partial year. A period of less than one month that the license is in effect will be considered and computed as one month for the payment of the pro rata fee, except as provided in this subsection. Liquor licenses expire on the 30th day of June of each year. The council may in its discretion provide by resolution for an increase or decrease in the license bond, or the payment of an "on sale" or "on sale wine" license fee in two equal installments payable on or before December 1 and June 30 of each license year. Liquor licenses commence on July 1 of each year. Failure to pay liquor license fees or installments thereof terminates the license, and the license may be reinstated only after at least ten days' notice and hearing before the council. A change of license

fee or change in bond requirement is effective immediately for new licenses, but for renewal licenses such changes are effective at the expiration of the current license year in which the increase or decrease was approved by the council.

1200.15. Types of licenses; fees. The council may issue licenses for "on sale", "off sale", "on sale wine", or "Sunday sale" or a combination thereof in such number as permitted by law and as an incident thereof the licensee may also sell, if licensed to do so by this code, food, cigars, cigarettes, tobacco, 3.2% malt beverages and soft drinks. A "Sunday sale" license must not be issued unless the applicant holds a valid "on sale" or "on sale wine" license and qualifies under the definition of "restaurant" as set forth in subsection 1200.01 of this chapter. The holder of an "on sale wine" license issued pursuant to this section must concurrently hold an "on sale" 3.2% malt liquor license issued pursuant to section 1215 to sell 3.2% malt liquors at on sale. The holder of an "on sale wine" license who is also the holder of an "on sale" 3.2% malt liquor license may sell intoxicating malt liquors at on sale without an additional license. Holders of an "on sale" intoxicating liquor license may sell 3.2% malt liquors and wine at on sale without further license. The acceptance by the city of one-half installment payment must not be construed as a waiver on the part of the city of the whole license fee which is hereby declared to be one divisible fee. The council may issue an "on sale" liquor license to bona fide clubs in existence for 20 years which are duly incorporated for the sale to members only. Fees for licenses issued pursuant to this section are set by appendix IV. (Amended, Ord. No. 99-07, Sec. 2)

1200.17. Annual reports. A licensee must furnish the city clerk the following information not later than 60 days prior to renewal of each retail liquor license:

- a) The name or names of all persons owning or having an interest in the licensed business including their age, occupation, residence and place of business.
- b) A list of all other liquor businesses by name and address that are located in the state of Minnesota in which such person listed in paragraph a) have an interest, and state the extent of such interest.

1200.19. License revocation. A license issued to a person not entitled to receive the same under this section or any law of the state of Minnesota may be revoked by the council at any time after ten days notice and public hearing in accordance with chapter X of this code.

1200.21. Corporations holding licenses. Subdivision 1. Stock transfers. A corporate retail liquor licensee must report within 14 days to the city clerk prior to each and any proposed change of legal ownership or beneficial interest in any of said corporate shares of stock. The report must be in writing and list all stockholders, their age, occupation, their residence address, the number of shares held by each, whether individually or for the benefit of others. The report must include all powers of attorney for proxies granted that relate to the voting of the corporate shares of stock. The council may approve or disapprove each such proposed transfer or assignment.

Subd. 2. Change of control. Any change in the legal ownership or beneficial interest in the shares of stock that results in a change of ownership or change of control of the corporation is hereby declared to be a transfer of a liquor license that is prohibited by this section and prior approval of the council is required. A new application, new investigation, new license fee and new processing is required. A change of partners will be deemed to be a new person requiring a new application, new investigation, new license fee and a new processing. The council will consider and vote on the matter of the change of ownership or control of the licensee as though an outsider were desiring to take out a new license. The failure to obtain such prior approval of the council or to produce books or other records in compliance with this section is grounds for automatic revocation of the corporate liquor license after notice and a public hearing.

Subd. 3. Corporation books. The council or any officer of the city so designated by it may at any reasonable hour examine the stock, transfer records, minute books and all other business records of the corporate licensee as may appear necessary. This right is especially provided to disclose the extent of the interest of any and all persons in the licensed corporation, the ownership and voting of shares of stock of the corporation, and to determine whether or not any change of the legal ownership of, or beneficial interest in certain shares of stock by itself or together with other transfers of shares of stock has directly or indirectly resulted in a multiple ownership or in a change of control of the licensed business. Particular scrutiny must be given to proxy voting and powers of attorney to vote stock shares.

Subd. 4. Corporate stockholder. The sale or transfer of shares of voting stock by the corporate licensee to another corporation is prohibited.

Subd. 5. Corporation information. In the case of publicly held corporations the city manager may accept disclosure documents required by the Securities and Exchange Commission of the United States of America in lieu of or as supplemental to information required of a corporation under any provision of this section.

1200.23. License revocation or suspension. Upon conviction of the licensee, or of any agent or employee of said licensee, for violation of any of the provisions of federal law, state law, or this code relating to intoxicating liquor, the council may revoke the license, suspend the license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions. (Amended, Ord. No. 2000-01, Sec. 1)

1200.25. Liquor control commissioner. The city clerk must after issuing any retail liquor license submit to the liquor control commissioner of the state of Minnesota the full name and address of each person granted such license including the trade name, effective license date, date of expiration, change of address, change of ownership, suspension, cancellation, or the revocation of such license by the council.

1200.27. Multiple ownership. Except where a combination "on sale" and "off sale" or "Sunday sale" license is permitted by the laws of the state of Minnesota a person may not knowingly have or possess a direct or indirect interest in more than one retail license in the city. Interest includes any pecuniary interest in the ownership, operation, management, or profits of retail liquor establishment other than bona fide rental agreements, bona fide loans or bona fide open accounts. A manufacturer or wholesaler may not directly or indirectly own or control or have any financial interest in any retail business selling intoxicating liquor.

1200.29. License transfer; posting. Liquor licenses are non-transferable. Licenses must be posted in a conspicuous place in the premises for which they are issued.

1200.31. License refunds. A liquor license may be pro rata refunded by the council in the following cases:

- a) The licensed premises of the business is destroyed by fire or other catastrophe.
- b) The licensee ceases business because of death or serious illness.
- c) Any act of the legislature or local option election prohibiting the sale of intoxicating liquors by the licensee.

1200.33. Health regulations. Subdivision 1. "On sale" sanitary facilities. In premises licensed for "on sale" separate wash rooms, including flush toilets must be provided for each sex on the inside of the premises and must be provided with a ventilation system permitting the air from the outside to circulate so that there will be a complete change of air at least four times per hour.

Subd. 2. Inspections. The premises of liquor establishments may be inspected by city officials and other public officers at any time. The premises must be maintained in a sanitary condition. Laws, regulations and ordinances in force pertaining to sanitation and health must be complied with. Glasses must be sterilized prior to being refilled or reused.

1200.35. Conditions of license. Subdivision 1. Beverage. Licenses issued under this section are subject to the conditions of this subsection. A licensee is responsible for the conduct of the licensed place of business.

Subd. 2. Unlawful acts. It is unlawful for:

- a) A licensee to sell or furnish to a minor, or to any habitual drunkard, or to any person obviously intoxicated, or to any person to whom sale is prohibited by Minnesota Statutes, any intoxicating liquor.
- b) A minor to be employed to sell or serve intoxicating liquor.
- c) A licensee to keep, possess, or operate, or permit the keeping, possession, or operation of, on the licensed premises, or in any room adjoining the premises, any slot machines, dice or any gambling device or apparatus, nor permit any gambling therein, or permit the licensed premises or any room in the same or any adjoining building directly or indirectly under the license's control to be used for prostitution or by other disorderly persons.

Subd. 3. Liquor in autos. Liquor may not be sold, served, or consumed in an automobile or on a street or alley within the city.

Subd. 4. Minors. The provisions of Minnesota Statutes, section 340A.503 are adopted by reference.

1200.37. Hours of sale. The hours of sale for intoxicating liquor are those specified in Minnesota Statutes, chapter 340A and section 1200.43 of this code. (Amended, Ord. No. 2001-05, Sec. 1).

1200.39. Proximity to churches and schools. A liquor license will not be granted for a building or place within 300 feet of any school building or church building without 60 days prior notification given by the clerk to the governmental entity or organization operating the school or church.

1200.41. Temporary on sale licenses. The city council may issue temporary on sale licenses for the on sale of intoxicating liquor to clubs, or charitable, religious or other non-profit organizations in the manner and subject to the conditions specified in Minnesota Statutes, section 340A.404, subdivision 10. The fee for a temporary on sale license is set by appendix IV.

1200.43. Sunday sales; special regulations. Subdivision 1. General. An establishment licensed for Sunday sale of intoxicating liquor must observe the regulations set forth in this subsection.

Subd. 2. Restaurant license. The establishment must be licensed as a restaurant under this code and conform to the provisions of chapter VI.

Subd. 3. Food service. Food service in the establishment must be provided continuously during operating hours as permitted by this code.

Subd. 4. Food preparation. The food preparation area of the establishment must be capable of preparing and serving full meals. At least one cook and one dishwasher must be on duty during hours of operation.

Subd. 5. Staff; personnel. The food service area of the establishment must have table seating for at least 30 persons. There must be on duty and assigned to the food service area at least (i) two waiters or waitresses or (ii) one waiter or waitress and one bus boy or bus girl during hours of operation. Generally, the food service staff must be adequate for the usual and suitable preparation and service of the presented menu and proper sanitation of the food service areas and food preparation areas.

Subd. 6. Menu. The menu at the establishment must consist of not less than four distinct entrees complete with vegetable, salad, rolls or bread and a selection of beverages.

Subd. 7. Clean air act. The establishment must conform to the requirements of Minnesota Statutes, sections 144.411 to 144.417, the Minnesota clean indoor air act, as amended. (Amended, Ord. No. 2007-12, Sec. 3)

1200.45. Notice; granting of license. The city manager must give mailed notice of the council consideration of application for a new on sale intoxicating liquor license to property owners and residents of residential properties within 500 feet of the location of the licensed premises. The notice must (i) be mailed at least ten days prior to the date of council consideration, (ii) state the date, time and place of the council meeting, (iii) the address of the licensed premises, (iv) the name of the applicant and the proposed name of the licensed premises. Failure to give the notice does not affect the validity of the license.

Subd. 8. Hours of Sunday sales. Pursuant to Minnesota Statutes, section 340A.503, subdivision 3(b), Sunday sales may be conducted between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays. (Added, Ord. No. 2001-05, Sec. 2)

1200.47. (Added, Ord. 2008-3) Social host liability. Subdivision 1. Purpose and findings. The Crystal city council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Crystal city council finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- (e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 2. Authority. This subsection is enacted pursuant to Minnesota Statutes, sections 145A.05, subdivision 1 and 340A.509.

Subd. 3. Definitions. For purposes of this subsection, the following terms have the following meanings:

- (a) Alcohol. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) Alcoholic beverage. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (c) Event or gathering. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) Host. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- (e) Parent. “Parent” means any person having legal custody of a juvenile:
 - (1) As natural, adoptive parent, or step-parent;
 - (2) As a legal guardian; or
 - (3) As a person to whom legal custody has been given by order of the court.
- (f) Person. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- (g) Residence or premises. “Residence” or “premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

(h) Underage person. “Underage person” is an individual under 21 years of age.

Subd. 4. Prohibited acts.

(a) It is unlawful for any person(s) to;

Host an event or gathering;

At any residence, premises, or on any other private or public property;

Where alcohol or alcoholic beverages are present;

When the person knows or reasonably should know that an underage person will or does

(i) consume any alcohol or alcoholic beverage; or

(ii) possess any alcohol or alcoholic beverage with the intent to consume it; and

The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

Possession by a person under the age of 21 at a place other than the household of a parent or guardian creates a rebuttable presumption of intent to consume it. This presumption may be rebutted by a preponderance of the evidence.

(b) A person is criminally responsible for violating subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd. 5. Exceptions.

(a) This subsection does not apply to conduct solely between an underage person and their parents while present in the parent’s household.

(b) This section does not apply to legally protected religious observances.

(c) This section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minnesota Statutes, section 340A.503, subdivision 1(a)(1).

(d) This subsection does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Subd. 6. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this subsection is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Subd. 7. Penalty. Violation of subdivision 4 is a misdemeanor.

Subd. 8. Effective date. This subsection shall take effect 30 days following its final passage and adoption.

Section 1205 - Consumption and display
of intoxicating liquor; bottle clubs

1205.01. Bottle clubs. Subdivision 1. Serving set-ups. The proprietor of any private club or public place of business, other than a holder of an intoxicating liquor license or a holder of a permit issued by the Minnesota state department of public safety pursuant to Minnesota Statutes, section 340A.114 may permit the consumption or display of intoxicating liquors upon such premises. The serving or providing of the serving of liquids for the purpose of mixing with intoxicating liquor, is prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to the provisions of this section.

Subd. 2. Additional fees. There is imposed upon holders of permits issued pursuant to Minnesota Statutes, section 340A.114, an additional fee of \$300 per annum. The fee must be paid to the city finance director on or before March 31 of each year and a receipt given thereof, provided, however, upon commencement of a new permit period under the state permit, if a portion of the year has elapsed when payment is made, a pro rata fee may be paid but no such pro rata fee may be less than \$150. In computing the fee, an unexpired fraction of a month is counted as one month. The receipt must be posted in some conspicuous place upon the premises alongside the state permit.

Subd. 3. Inspections. A private club or public place allowing the consumption or display of intoxicating liquor must be open at reasonable hours for inspection by the department of public safety and authorized city officials. Refusal to permit such inspection is a violation of this section.

Subd. 4. Hours of consumption and display. The hours of consumption and display of intoxicating liquor are those specified in Minnesota Statutes, chapter 340A.

Section 1215 – 3.2% malt liquor

1215.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "3.2% malt liquor" or "beer" means a malt liquor that contains not more than 3.2% of alcohol by weight and not less than 1/2 of 1% alcohol by volume, and is a fermented malt beverage. (Amended, Ord. No. 99-07, Sec. 3)

Subd. 3. "Intoxicating liquor" and "liquor" means ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight.

Subd. 4. "Sale" or "sell" or "sold" means all barter, gifts and all manners or means of furnishing non-intoxicating malt liquor including such furnishing in violation or evasion of law.

Subd. 5. "Package" or "original package" means a container, can, receptacle, or bottle holding or containing 3.2% malt liquor which remains capped, corked or sealed. (Amended, Ord. No. 99-07, Sec. 4)

Subd. 6. "Off sale" means the sale of 3.2% malt liquor to be consumed off the premises. (Amended, Ord. No. 99-07, Sec. 5)

Subd. 7. "On sale" means the sale of 3.2% malt liquor to be consumed on the premises. (Amended, Ord. No. 99-7, Sec. 6)

Subd. 8. "Manufacturer" means a person who by any process of manufacture, fermenting or brewing must prepare or produce 3.2% malt liquor. (Amended, Ord. No. 99-07, Sec. 7)

Subd. 9. "Wholesaler" means a person engaged in the business of selling 3.2% malt liquor to retail dealers. (Amended, Ord. No. 99-07, Sec. 8)

Subd. 10. "Bona fide club" means a non-profit corporation duly organized under the laws of the state of Minnesota and in continuous existence holding meetings for more than one year prior to the granting of the license which is organized for civic, religious, fraternal, social, sports or intellectual purposes where the serving of 3.2% malt liquor is incidental to and not the major purpose of the organization. (Amended, Ord. No. 99-07, Sec. 9)

Subd. 11. "Tavern" means a place other than a bona fide club that in addition to serving its guests 3.2% malt liquor is used, maintained, advertised or held out to the public to be where: (Amended, Ord. No. 99-07, Sec. 10)

- a) Music of any kind whatsoever is played, either by orchestra, phonograph, automatic piano, radio, television, musical instrument, or any other machine or device of any kind or character, or
- b) Where there is singing, dancing, vaudeville, stage show, or any other amusement of any kind on the premises.

Subd. 12. For purposes of this section the term "minor" means a person under the age specified in Minnesota Statutes, section 340A.503.

1215.03. License required. It is unlawful to sell, or keep for sale, beer without first obtaining a license therefor from the city and complying with the laws of the state of Minnesota, the regulations of the liquor control commissioner, appropriate regulations and statutes of the United States, and this section.

1215.05. Qualifications of applicant. A license may not be issued to a person other than a citizen of the United States, who is not a minor, who is of good moral character and repute, nor to any person who within five years prior to the application for such license has been convicted of a wilful violation of any law of the United States or the state of Minnesota or any local ordinance, with regard to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor or of 3.2% malt liquor, nor to any person whose license under this section has been revoked for a wilful violation of any such laws or ordinance. A false material statement made in the application is grounds for revocation of the license. (Amended, Ord. No. 99-07, Sec. 11)

1215.07. Restriction on issuance of licenses. Subdivision 1. Multiple ownership. A person may not knowingly have or possess a direct or indirect interest in more than one tavern license in the city.

Subd. 2. Licensee must be proprietor. A beer license may not be issued to an applicant unless that person is the actual owner or proprietor of the premises where beer is to be sold.

Subd. 3. Federal stamp tax holder. A beer license may not be granted to a holder of a federal retail dealer's special tax stamp for the sale of intoxicating liquor at any place, unless the holder also has a license to sell intoxicating liquor at that location.

Subd. 4. Other ownership. A manufacturer or wholesaler of beer may not have any ownership in whole or part either directly or indirectly in the business of any licensee under this section.

Subd. 5. Ineligible person. A retail beer license may not be issued to a person who has been convicted of a felony during the past five years under the laws of the state of Minnesota or any other state; who has been convicted three times of the non-wilful violation of the provisions of a municipal ordinance regulating the sale, possession, use, manufacture or transportation of intoxicating liquor or beer within the last five years; or whose intoxicating liquor or beer license has been revoked for any reason during the past five years. The five year period is computed from the date of application for license.

Subd. 6. Proximity to churches and schools. A beer license may not be granted for a building or place within 300 feet of any school building or church building without 60 days prior notification given by the clerk to the governmental entity or organization operating the school or church. (Amended, Ord. No. 2011-5)

Subd. 7. Ineligible premises. A beer license may not be granted to premises where the licensee has had the license revoked for any reason until one year has elapsed after the revocation. (Amended, Ord. No. 2011-5)

1215.09. Application contents. Subdivision 1. Individuals. The applicant for an off sale beer license and special permit license must supply the information listed in items a) to f) below, but all information must be supplied if so requested by the manager or council. For all other beer licenses each new applicant must supply all the information listed below.

- a) Name and age of applicant.
- b) Marital status.
- c) Whether applicant is a registered voter and in which municipality.

- d) The various addresses at which the applicant has resided during the last five years preceding the making of the application.
- e) The exact street address or legal description of premises where licensed business is to be conducted.
- f) Name or names of all persons owning or having an interest and the extent of such interest in the licensed business, including their age, occupation, residence and place of business.
- g) Whether the applicant has ever operated a saloon, cafe, soft drink parlor or other business of a similar nature, and if so, where and for how long.
- h) The kind and location of every business and occupation that the applicant has been engaged in during the last five years prior to the making of the application, together with the name and address of all employers by whom engaged during that period.
- i) Whether the applicant has ever been arrested for or convicted of any state or federal crime, violation of any ordinance, state or federal regulations concerning intoxicating liquor or beer and the reason such arrests or convictions were made.
- j) A list of all leases or subleases of real estate, building fixtures and furniture where non-intoxicating malt liquor is to be sold, and a list of all syndicate, trustee, guardian, partnership, rental and powers of attorney arrangements.
- k) A list of all liquor or beer businesses in which applicant has an interest and the extent of such interest.
- l) The name, address and age of every person who will have charge, management or control of the licensed premises.
- m) Names and addresses of at least three or more persons who have known the applicant well enough during the past five years to attest to the applicant's good character and reputation.
- n) A diagram of the layout of the building, premises and parking lot, in the case of new applicants for club and tavern licenses.

Subd. 2. Renewal application. An application for renewal of a beer license must be made at least 20 days prior to the renewal date. The application must state any material change in the information supplied with the original application.

Subd. 3. Corporations and partnerships. If the applicant is a corporation or partnership, the application must supply the information listed in subdivision 1 for the manager of the licensed premises and must also list the name and general purpose of the corporation or partnership and the state under whose laws it is incorporated or organized. The following information is mandatory for all tavern and club licenses, but for off sale licenses only if requested by the manager or council:

- a) The names of all partners if a partnership and the names of all officers, directors and stockholders, and their addresses if a corporation.
- b) Each individual's interest in the license and the extent of such interest; as to each individual, all the information required above must be furnished as for an individual applicant and such other information as the manager or council may from time to time require.
- c) The individual or individuals having controlling interest of the corporation or partnership.
- d) All voting arrangements, trustee, syndicate, proxies and powers of attorney arrangements for the voting of shares of stock, and which shares of stock are voting and which are non-voting.
- e) The name of any other municipality in the state of Minnesota in which the applicant has held or presently holds a license for the sale of intoxicating or 3.2% malt liquor. (Amended, Ord. No. 99-07, Sec. 12)

If at any time during the term of an off sale license held by a corporation or partnership, the manager of the licensed premises is changed, the licensee must promptly notify the city manager and submit the information required by subdivision 1 on the new manager.

1215.11. Investigation of application. Subdivision 1. Duties of chief of police. Applications for a beer license must be referred to the chief of police for a CCH Investigation as authorized by section 311 of the city code. Each manager under a corporation or partnership license and each individual or person having any beneficial interest in the license must be investigated. The chief of police must make necessary inquiry and list all violations pending that occurred at the establishment being investigated while under the same ownership. The chief must verify the facts stated in the application and investigate the operation of applicant under an intoxicating or 3.2% malt liquor license in any other municipality in the state of Minnesota by means of a CCH Investigation as authorized by section 311 of the city code. The chief must report the findings and comments to the manager who must order or conduct such additional investigation as the chief deems necessary or as the council may direct. (Amended, Ord. No. 99-07, Sec. 13; Ord. No. 2007-11, Sec. 10)

Subd. 2. Fees. An applicant for a new beer license must pay to the city finance director the fee set by appendix IV for each individual investigated pursuant to subdivision 1. A similar fee must be paid for any investigation required by this section upon renewal of a beer license.

1215.13. Burden of proof. Subdivision 1. Facts. The applicant or holder of a beer license has the burden of proving to the council the following:

- a) That each individual having a pecuniary interest or a beneficial interest in the license is a person of good character and integrity.
- b) That the person applying for the license or holding the same is in fact the true proprietor thereof and that each individual having any interest in the license has in fact been listed correctly on the application, and the council has been accurately apprised promptly of any and all

changes in the person holding the license, regardless of whether an individual, partnership, corporation or group by whatever arrangement organized.

- c) That the premises are suitable for the type and kind of license required.
- d) That the applicant or licensee will be responsible for his agents, employees and servants and for the conduct of the licensed place of business and for conditions of sobriety and order therein.
- e) That the provisions of this code and state and federal law will be complied with.

Subd. 2. Failure to disclose. In the event that the applicant for a license, or a holder of an existing license, fails to make full disclosure to the council, manager, or police chief or any officer of the city so designated by any of them or fail to promptly produce books, records, leases or subleases or to promptly correct any deficiency in the operation or management of the premises as requested, then such refusal or non-compliance may be sufficient grounds for denial of the new license, revocation or suspension of an existing license or refusal to renew an existing license.

1215.15. License year. Pro rata licenses for a partial year may be issued to new tavern licensees only. Other applicants must pay the full annual license fee. Any period of less than one month that the license is in effect will be considered and computed as one month for the payment of the pro rata fee, except as provided in this subsection. Beer licenses expire annually on June 30. The council may provide by resolution for an increase or decrease in the license fees for off sale, tavern, bona fide club, or special permit licenses. Failure to pay the fee required for a beer license when due automatically terminates the license and it may only be reinstated after at least ten days notice and hearing before the council in accordance with appendix IV.

1215.17. Types of licenses; fees. There are four kinds of beer licenses:

- a) A tavern license permits the on sale of beer. Unless operating under a tavern license no music of any kind is permitted to be played on a licensed intoxicating liquor or beer premises, except in a bona fide club, either by orchestra, phonograph, piano, radio, television or any other musical instrument, machine or device of any kind or character, nor is live entertainment of any kind or dancing permitted on the premises.
- b) Off sale license.
- c) Bona fide club license.

- d) Special permit on sale license, which may be issued by the council to non-profit corporations, social organizations, lodges, labor unions, churches and for sale to members and guests for a period not to exceed five days.

The fees for each kind of license are set by appendix IV.

1215.19. Improper license; mandatory revocation. A license issued to a person not entitled to receive the same under this section or any law or regulation of the state of Minnesota or any law or regulation of the United States must be revoked by the council after ten days' notice and public hearing in accordance with appendix IV.

1215.21. License revocation or suspension. Upon conviction of the licensee, or of any agent or employee of said licensee, for violation of any of the provisions of federal law, state law, or this code relating to 3.2 percent malt liquor, the council may revoke the license, suspend the license for up to 60 days, impose a civil penalty of up to \$2,000 for each violation, or impose any combination of these sanctions. (Amended, Ord. No. 2000-01, Sec. 2)

1215.23. Transfer of license; posting. Beer licenses are non-transferable. Beer licenses must be posted in a conspicuous place in the premises for which they are issued.

1215.25. Refunds of fees. Tavern licenses may be pro rata refunded if the licensed premises are destroyed by fire or other catastrophe, or the licensee ceases business because of death or serious illness. No other refunds are permitted.

1215.27. Health regulations. Subdivision 1. Sanitary facilities. In each licensed on sale establishment there must be installed and maintained at least one toilet room for each sex. In each toilet room for use by women there must be installed and maintained at least one water closet and one lavatory. In each toilet room for use by men, there must be installed and maintained at least one water closet, one lavatory, one urinal, and a properly installed and maintained floor drain sufficient at all times to keep such floor dry and in a sanitary condition. Water closet bowls must be of extended lip pattern styles equipped with an open front and must at all times be kept clean, sanitary and in good working condition. The floors and side walls, except doors, to a height of at least three feet above the floor, of toilet rooms and urinal compartments must be constructed of a non-corrosive and non-absorbent material, and approved by the building inspector. Toilet rooms may not be installed in cellars or basements if there are no other rest rooms in the establishment. When toilet rooms are on the same floor the entrances thereto must be located as far apart as practicable, and each must be plainly

marked to indicate whether for men or women. Toilet rooms must be provided with a ventilator system permitting the air from the outside to circulate so that there will be a complete change of air at least four times per hour.

Subd. 2. Inspections. Licensed beer establishments must be open for inspection by the city officials and other public officers at all times. The premises must be maintained in a sanitary condition. All laws, regulations and ordinances in force pertaining to sanitation and health must be complied with. Glasses must be sterilized prior to being refilled or reused.

1215.29. Hours of sale. The hours of sale for 3.2% malt liquor are those specified in Minnesota Statutes, chapter 340A. (Amended, Ord. No. 99-07, Sec. 15)

1215.31. Regulations of minors. The provisions of Minnesota Statutes, section 340A.503 are adopted by reference.

1215.33. License conditions. Subdivision 1. Licensee's responsibility. The licensee is responsible for the conduct of the place of business. The licensee is responsible for agents, employees or servants. Beer may not be sold to an habitual drunkard, to any person obviously intoxicated, or to any person to whom the sale is prohibited by ordinance or statute.

Subd. 2. Gambling. Gambling is not permitted on a licensed premises.

Subd. 3. Federal retail liquor license. It is unlawful to sell beer while holding or exhibiting in the place of business a federal retail liquor dealer's special tax stamp without having an intoxicating liquor license from the city.

Subd. 4. Bona fide club. Bona fide clubs may sell beer only to members and to their guests. Clubs must enforce this regulation and all regulations of this section.

1215.35. Places where sale forbidden. Subdivision 1. Pool tables. Pool tables, billiard tables, bumper pool tables, or coin operated pool tables are not allowed upon the licensed premises unless the said pool tables, billiard tables, bumper pool tables or coin operated pool tables are enclosed in a separate room or enclosure. Beer may not be sold or consumed in such a room or enclosure.

Subd. 2. Other places. Beer may not be sold, served, or consumed in any automobile or on any street, alley or other public place within the city, nor on any other public premises except when permitted by a special permit license issued by the council.

1215.37. Multiple ownership. A person may not knowingly have or possess a direct or indirect interest in more than one retail tavern or on sale license within the city.

1215.39. Change of control. Subdivision 1. New proprietor, owner or partnership. Prior approval of the council is necessary if there is a change in the ownership, change of proprietor or a new partnership formed to control the license. A new application, new investigation and new license fee and processing is then necessary.

Subd. 2. Corporation. A change in the legal ownership or beneficial interest in shares of stock entitled to be voted at any meeting of the stockholders of a corporate licensee which results in or which could so result, if exercised, in a change of voting control of the corporate licensee, is declared to be a transfer of a beer license which is proscribed by this section and prior approval by the council is required. A new application, new investigation, new license fee and processing is then necessary.

Subd. 3. Council approval. The council must consider and vote on the matter of the change of the ownership or control of the corporate or other licensee as though an outsider were applying for a new license. The failure to obtain the approval of the council or to produce books or other records in compliance with this section is grounds for automatic revocation of the corporate beer license after notice and a public hearing in accordance with appendix IV.

1215.41. Notice; granting of license. The city manager must give mailed notice of the council consideration of application for a new on sale 3.2% malt liquor license to property owners and residents of residential properties within 500 feet of the location of the licensed premises. The notice must (i) be mailed at least ten days prior to the date of council consideration, (ii) state the date, time and place of the council meeting, (iii) the address of the licensed premises, (iv) the name of the applicant and the proposed name of the licensed premises. Failure to give the notice does not affect the validity of the license. (Amended, Ord. No. 99-007, Sec. 16)

Section 1220 - Entertainment in licensed premises

1220.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subsection have the meanings given them:

Subd. 2. "License" means any of the following licenses issued by the city:

- a) on sale 3.2% malt liquor, (Amended, Ord. No. 99-07, Sec. 17)
- b) on sale liquor, and
- c) on sale wine.

Subd. 3. "Licensed premises" means the compact and contiguous area of real estate for which a license is issued.

Subd. 4. "Nudity" means the showing of the post-pubertal human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of a post-pubertal female breast with less than a fully opaque covering of any portion thereof 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, the female breast is considered uncovered if the nipple only or the nipple and the areola are uncovered. (Amended, Ord. No. 1996-2, Sec. 3)

Subd. 5. "Sado-masochistic abuse" means scenes involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering or binding or other physical restraint of any such persons, in an apparent act of sexual stimulation or gratification.

Subd. 6. "Sexual conduct" means acts of 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.

1220.03. Prohibited acts. Subdivision 1. General rule. It is unlawful for the licensee, owner, or manager of any licensed establishment to permit or allow entertainment or service involving any nudity, sado-masochistic abuse, or sexual conduct to occur in such licensed establishment.

Subd. 2. Revocation and suspension. The council may suspend or revoke a license for violation of this section. A suspension or revocation does not take effect until the licensee has been afforded an opportunity for a hearing pursuant to this code. This section does not preclude other civil remedies, including injunctive relief, pending the outcome of the hearing.