

# City Code

## Chapter 4

### Alcoholic Beverages

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#### Article 1. General Conditions

##### Sec. 4-1. Definitions.

The definitions in this Section shall apply when these words and phrases are used in this Chapter.

- (1) **Beer or 3.2 Percent Malt Liquor.** Any malt beverage with an alcoholic content of not less than ½ of 1 percent by volume and not more than 3.2 percent by weight.
- (2) **Beer Store.** An establishment for the sale at retail of beer, cigars, cigarettes, all forms of tobacco, beverages, and soft drinks.
- (3) **Bowling Alley.** An establishment open to the public for playing the game of bowling that maintains and operates at least four regulation size bowling alleys for use by its patrons.
- (4) **Brewpubs.** Restaurants at which beer is brewed or manufactured for sale on the premises in conjunction with the sale of food and at which no alcoholic beverages other than beer and wine are sold.

(5) **Club.**

A. A corporation organized under the laws of the State for a civic, fraternal, social or business purpose, for intellectual improvement or for the promotion of sports, that has been in existence for more than fifteen years; or,

B. A congressionally chartered veterans organization that:

1. Has been in existence for more than ten years,

2. Has more than fifty members,

3. Has for more than a year 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,

4. 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.

(6) **Exterior Public Area.** The area outside the exterior walls of a restaurant, hotel, or motel that is open to the general public for the furnishing of food and liquor.

(7) **Hotel and Motel.** An establishment:

A. Having a resident proprietor or manager;

B. Where, in consideration of payment, food and lodging are regularly furnished to transients;

C. That maintains for the use of its guests not less than fifty guest rooms with bedding and other usual, suitable, and necessary furnishings in each room;

D. That is provided at the main entrance with a suitable lobby, desk, and office for the registration of its guests on the ground floor;

E. That employs an adequate staff to provide suitable and usual service; and,

F. That maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating not less than 100 guests at one time, where the general public is, in consideration of payment, served with meals at tables.

(8) **Interior Public Area.** The area inside the exterior walls of a restaurant, hotel, or motel that is open to the general public for the furnishing of food and liquor.

(9) **Intoxicating Liquor or Liquor.** A distilled or fermented beverage containing more than 3.2% of alcohol by weight. The term does not include ethyl alcohol or neutral spirits or substitutes therefor, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits.

(10) **Manufacturer.** A person who prepares or produces intoxicating liquors for sale by any process of manufacturing, fermenting, brewing, distilling, refining, rectifying, blending, or combining of different materials.

(11) **Off-Sale.** The retail sale in the original package for consumption away from the premises where sold.

(12) **On-Sale.** Sale by the drink for consumption on the premises only.

(13) **Package or Original Package.** Any corked or sealed container or receptacle holding liquor.

(14) **Private Bottle Club.** A group organized under the laws of the State for civic, fraternal, social, or business purposes if it meets all of the these conditions:

- A. It shall have more than fifty dues paying members with the dues determined by the bylaws of the club. A copy of the bylaws shall be approved and filed with the City.
- B. It shall own, hire, or lease 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. The building shall be used as a private bottle club only if it meets all of the structural requirements of the ordinances, regulations, and resolutions of the City and the State Department of Health.
- C. The club's affairs and management shall be conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.
- D. None of the club's members, officers, agents, or employees shall be paid directly or indirectly any compensation by way of profit from the distribution or sale of intoxicating liquors to the members of the club or its guests.
- E. The private bottle club shall have a manager or other person in charge who will be responsible for the proper operation of the club.
- F. Active members of the club shall be permitted to maintain a private locker on the premises to be used for their personal property. Personal property includes intoxicating liquor in its original package. The locker must be installed with a lock in proper working order. The key or combination to the lock shall be kept in the care, custody, and control of the member.
- G. Liquor may be consumed on the premises by the member and their guest only and may be dispensed by the member or by an employee of the club.
- H. Food must be available for consumption on the premises.

(15) **Restaurant.** An establishment, other than a hotel or motel:

- A. Under the control of a single proprietor or manager;
- B. With the serving of meals being the principal part of the business and seating not fewer than 125 guests at one time or forty guests in the case of a brewpub;
- C. Where in consideration of payment, meals are regularly served at tables to the general public; and,
- D. With an adequate staff employed to provide the usual and suitable service to the guests.

(16) **Sale and Sell.** In addition to the accepted meaning of the term, all barbers, gifts, and other means of furnishing intoxicating liquor in violation or evasion of this Chapter.

(17) **Setup.** Water, soft drink, or other nonalcoholic beverage served in a container with or without ice for the purpose of being mixed with an alcoholic beverage.

(18) **Wholesale.** Any sale for purposes of resale. The term "wholesaler" means a person engaged in the business of selling intoxicating liquor to retail dealers. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 462, 9-25-79; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 663, 12-21-99; Code of 2001)

#### **Sec. 4-2. Violations Declared Misdemeanor.**

Any person violating any provision of this Chapter shall be guilty of a misdemeanor (Code 1966; Ord. No 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-3. Interpretation.**

The provisions of this Chapter shall be interpreted to be consistent with State law and, in the event of any conflict, State law shall control. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-4. Responsibility of Licensee.**

A licensee shall be responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell or serve intoxicating liquor or beer shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties provided for the violation of this Chapter equally with the employee. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-5. Officer's Right of Entry.**

A peace officer or any other properly designated officer or employee of the City shall have the unqualified right to enter, inspect, and search the premises of any licensee under this Chapter during business hours without a warrant. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-6. Certain Persons Excluded.**

No person of a known immoral character or any disorderly person shall be permitted on any premises coming under the provisions of this Chapter. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-7. Sale to Certain Persons Prohibited.**

No intoxicating liquor or beer shall be sold, furnished, procured for, or delivered to an intoxicated person, to a habitual drunkard, to a person under 21 years of age, or to any person to whom the sale is prohibited by law. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-8. Gambling Prohibited.**

No person shall:

- (1) Keep, possess, or operate on the premises licensed for the sale of beer or intoxicating liquor or in any rooms adjoining or connected therewith any slot machine, dice or any other gambling device, or
- (2) Permit the same to be so used or kept, or
- (3) Gamble or permit gambling activities to be conducted except as authorized in Minnesota Statutes, Chapter 349 as lawful gambling provided the organization conducting the lawful gambling has complied with the requirements of Chapter 349 and the rules of the MN Charitable Gambling Control Board (Code 1966; Ord No 312, 12-26-72; Ord No 537, 12-19-85; Code of 1988; Code of 2001)

**Sec. 4-9. Ineligible Locations.**

(1) No license nor any special use permit required by this Chapter shall be granted to premises with a property line within 400 feet of the property line of any public or parochial school or church in the City.

(2) At its sole discretion, the City Council may allow a lesser distance upon making a finding that the location of the licensed operation is not unduly detrimental to the public health, welfare, and safety of the citizens.

(3) At its sole discretion, the City Council may require a greater distance upon making a finding that the location of the licensed operation is unduly detrimental to the public health, welfare, and safety of the citizens.

(4) The findings shall be made by the City Council after considering the effect of natural barriers, highway thoroughfares, proximity to park areas and other areas of public assembly, the activities conducted in any such church or school, the nature of the licensed operation, and the orientation of and access to the building and property. (Ord. No. 463, 9-25-79; Code of 1988; Code of 2001)

**Sec. 4-10. Insurance.**

No license required by this Chapter shall be issued, maintained, or renewed unless the applicant provides proof of financial responsibility by bond or insurance providing the coverage specified by Minnesota Statutes, Section 340A.409, Subdivision 1. The policy shall provide that no cancellation for any cause can be made either by the insured or the insurance company without first giving ten days written notice to the City of the intention to cancel the policy. The provisions of Minnesota Statutes, Section 340A.409, Subdivision 4 shall not apply or operate to reduce or eliminate these requirements. (Ord. No. 582, 9-24-91; Code of 2001)

**Sec. 4-11. Noisy or Disruptive Activities.**

The occurrence on the licensed premises of a violation of Section 17-2 (Noisy Parties or Gatherings) is a violation of this Chapter for purposes of Sections 4-83, 4-132, and 4-176. (Ord. No. 584, 6-9-92; Code of 2001)

## **Sec. 4-12. Prohibited Conduct.**

The acts or conduct specified in this Section are prohibited on any premises licensed under this Chapter.

- (1) Employing or use of a person in the sale or service of beverages in or upon the licensed premises where such person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.
- (2) Employing or use of the services of any host or hostess while such host or hostess is unclothed or in such attire, costume, or clothing as described in Section 4-12(1).
- (3) Encouraging or permitting a person on the licensed premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person.
- (4) Permitting an employee or person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
- (5) Permitting a person to perform acts of or acts which simulate:
  - A. Sexual intercourse, sodomy, oral copulation, flagellation, or any sexual acts which are prohibited by law with or upon another person.
  - B. Masturbation or bestiality.
  - C. Touching, caressing, or fondling of the buttocks, anus, genitals, or female breast with or upon another person.
  - D. Displaying of pubic hair, anus, vulva, genitals, or female breasts below the top of the areola.
- (6) Permitting a person to use artificial devices or inanimate objects to depict any of the prohibited activities described in Sections 4-12(1-5).
- (7) Permitting a person to remain in or upon the licensed premises who exposes to public view any portion of their genitals or anus.
- (8) Permitting or showing of film, still pictures, electronic reproductions, or other reproductions depicting:
  - A. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
  - B. A person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals.
  - C. Scenes wherein a person displays the vulva, or the anus, or the genitals.
  - D. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the activities described in Section 4-12(1-7). (Ord. No. 584, 6-9-92; Code of 2001)

**Secs. 4-13--19. Reserved.**

## **Article 2. Minors**

### **Sec. 4-20. Purchase.**

No person under 21 years of age shall purchase, attempt to purchase, consume, or have another person purchase intoxicating liquor for him or her. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

### **Sec. 4-21. Receipt of Liquor.**

No person under 21 years of age shall receive delivery of intoxicating liquor. (Code 1966; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

### **Sec. 4-22. Inducing.**

No person shall induce a minor to purchase or procure intoxicating liquor or 3.2 percent malt liquor. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)(Ord. No. 724, 2-8-05)

### **Sec. 4-23. Possession.**

No person under 21 years of age shall be in possession of 3.2 percent malt liquor or intoxicating liquor for his or her own consumption or for consumption by another minor. Possession by a minor of any 3.2 percent malt liquor or intoxicating liquor shall be prima facie evidence of intention to consume. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

### **Sec. 4-24. Misrepresentation of Age.**

No person under 21 years of age shall misrepresent his or her age for the purpose of obtaining liquor or beer. A person under 21 years of age shall not enter any premises licensed for the retail sale of liquor or beer for the purpose of purchasing or having liquor or beer served or delivered to him or her. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

### **Sec. 4-25. Identification.**

A person shall produce and permit to be examined a Minnesota identification card issued pursuant to Minnesota Statutes, Section 171.07, Subdivision 3 when it appears to the licensee that the person may be under the age of 21. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-26. Prosecution for Violation.**

In every prosecution for a violation of this Article and in every proceeding before the City Council with respect thereto, the fact that the minor involved obtained and presented to the licensee a regularly issued Minnesota identification card from which it appeared that the minor was 21 years of age, shall be prima facie evidence that the licensee is not guilty of a violation of such a provision and shall be conclusive evidence that a violation, if one has occurred, was not willful or intentional. The word "licensee" shall include the licensee and the licensee's employees, or agents. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-27. Repealed.** (Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-28. Employment.**

No person under eighteen years of age shall be employed in a private bottle club or any other room constituting the place in which intoxicating liquors are sold at retail. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Secs. 4-29--4-39. Reserved.**

**Article 3. Municipal Dispensary**

**Secs. 4-40-4-49. Repealed.** (Ord. No. 577, 11-27-90; Code of 2001)

**Secs. 4-50--4-61. Reserved.**

## **Article 4. Nonintoxicating Malt Liquor**

### *Division 1. General*

#### **Sec. 4-62. Hours of Operation.**

The hours of operation for the sale of 3.2 percent malt liquor shall be those specified by State law. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 525, 11-13-84; Code of 1988; Code of 2001)(Ord. No. 724, 2-8-05)

#### **Secs. 4-63—4-69. Reserved.**

*Division 2. License*

**Sec. 4-70. Limitation of Number.**

Not more than one on-sale and one off-sale 3.2 percent malt liquor license shall be issued to or held by the same person. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 352, 5-27-75; Ord. No. 461, 9-25-79; Code of 1988; Code of 2001)

**Sec. 4-71. Application.**

Application for a license shall be made on a form as prescribed by the City. No application shall contain a false statement. Information contained in the application shall include:

- (1) Name, age, and citizenship of the applicant.
- (2) Representations as to the applicant's character with references as may be required.
- (3) Whether the applicant is the owner and operator of the business.
- (4) How long the applicant has been in that business at that location.
- (5) Such other information as may be requested. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-72. Ineligible Persons.**

- (1) No license required by the provisions of this Article shall be granted to or held by a corporation.
- (2) No license shall be granted to or held by a person:
  - A. Under nineteen years of age.
  - B. Who is not of good moral character or repute.
  - C. Who is an alien.
  - D. Who, within five years prior to the application for a license, has been convicted of any willful violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor, nor to any person whose license has been revoked for any willful violation of these laws or ordinances.
  - E. Who is directly or indirectly interested in any other establishment in the City to which a license of the same class has been issued under this Chapter. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 645, 9-22-98; Code of 2001)

**Sec. 4-73. Ineligible Places.**

No license shall be issued to a person in connection with the premises of another to whom no license could be issued under the provisions of this Article provided that this requirement shall not prevent the granting of a license to a proper lessee by reason of the leasing of the premises of a minor, noncitizen, or a person who has been convicted of a crime other than a violation of Minnesota Statutes, Chapter 340A. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 463, 9-25-79; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-74. Fees.**

(1) The license fee shall be paid in full before the application is accepted. All fees shall be paid into the City's General Fund. The fee shall be refunded upon rejection of the application less an amount for investigation of the applicant's qualifications. The annual fees shall be established by resolution.

(2) No fee shall be refunded except as authorized under Minnesota Statutes, Section 340.112. (Code 1966; Ord No 312, 12-26-72; Ord No. 492, 4-13-82; Code of 1988; Code of 2001)

**Sec. 4-75. Investigation.**

The City shall investigate all facts set out in the application. After the investigation, the City Council shall grant or refuse the application in its discretion. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-76. Issuance Restricted.**

The license shall be issued to the applicant only and shall be issued only for the premises described in the application. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-77. Pro-Rated Fee.**

A license shall expire on the last day of March each year. The license shall be issued for a period of one year except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rata fee. In computing the pro-rated fee, any unexpired fraction of a month shall be computed as one month. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-78. Transfer.**

No license shall be transferred to another person or to another place without the approval of the City Council. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-79. Subject to Law.**

Every license shall be granted subject to the provisions of this Article and all other provisions of this Chapter and of any other applicable ordinances of the City or State law. (Code 1966; Ord. No. 312,12-26-72; Code of 1988; Code of 2001)

**Sec. 4-80. Display.**

The license shall be posted in a conspicuous place on the licensed premises at all times. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-81. Sale and Consumption Restricted.**

No person holding an on-sale license for the sale of 3.2 percent malt liquor who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquor on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and, the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this Chapter except for persons holding a 3.2 percent malt liquor license which specifically permits the preparation of setups on their premises. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)(Ord.No. 724, 2-8-05)

**Sec. 4-82. Setup License.**

(1) No establishment shall serve any liquid, ice, or drinking container for the purpose of mixing with or consuming of intoxicating liquors unless the establishment holds an on-sale 3.2 percent malt liquor license which specifically permits the preparation of setups on the premises.

(2) No on-sale 3.2 percent malt liquor license permitting the preparation of set-ups on the premises shall be issued to an establishment except a restaurant, a bowling alley, or a private bottle club which has been granted a special use permit pursuant to provisions of this Code. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Ord. No. 494, 4-27-82; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-83. Revocation.**

(1) The City Council may suspend or revoke a 3.2 percent malt liquor license for violation of any provision or condition of this Chapter or any State law regulating the sale of intoxicating or 3.2 percent malt liquor and shall revoke the license if the licensee willfully violates any provision of Minnesota Statutes, Chapter 340A.

(2) The City Council shall hold a public hearing to consider the revocation or suspension.

(3) The licensee shall be provided with written notice of the hearing at least eight days before the hearing. The notice shall state the time, place of the hearing, and the nature of the charges against the licensee. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-84. Temporary License.**

Bona fide clubs, charitable, religious, and other qualified nonprofit organizations may be issued a temporary on-sale 3.2 percent malt liquor license upon meeting these conditions:

- (1) Completing an application as required in Section 4-71. The application shall state the nature of the event, the premises to be licensed, and the name of the individual responsible for the license.
- (2) Meeting the requirements of Section 4-72.
- (3) Paying the license fee as specified by resolution.
- (4) Providing adequate policing for the event and demonstrating to the satisfaction of the City that such policing will be provided.
- (5) Agreeing to hours of operation as stated in Section 4-62 or more restrictive hours as may be required by the City Council.
- (6) Complying with all applicable health laws. (Ord. No. 460, 9-25-79; Code of 1988; Ord. No. 582, 9-24-91; Code of 2001)

**Secs. 4-85--4-94. Reserved.**

## **Article 5. Intoxicating Liquor**

### *Division 1. General*

#### **Sec. 4-95. Hours of Operation.**

The hours of operation for the sale of intoxicating liquors shall be those specified by State law. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

#### **Sec. 4-96. Sunday Sales.**

(1) Notwithstanding the provisions of Section 4-95, on-sale intoxicating liquor licensees that are hotels, motels, restaurants, or clubs with facilities for serving not less than fifty guests at one time, or forty guests in the case of brewpubs, may serve intoxicating liquors between the hours of 10:00 a.m. on Sunday and 2:00 a.m. on Monday in conjunction with the serving of food.

(2) No establishment, directly or indirectly, shall sell or serve intoxicating liquors as provided in Section 4-96(1) without having first obtained a special license. The special license may be issued for a period of one year. Application for the special license shall be made to the City in the same manner as for other intoxicating liquor licenses. (Ord. No. 438, 11-28-78; Ord. No. 540, 3-11-86; Ord. No. 555, 12-8-87; Code of 1988; Ord. No. 577, 11-27-90; Ord. 663, 12-21-99; Code of 2001)(Ord. No. 708, 8-12-03)

#### **Sec. 4-97. Refilling or Tampering with Package.**

(1) No licensee shall sell, offer for sale, or keep for sale, intoxicating liquors in any original package that has been refilled or partly refilled.

(2) No licensee shall directly or through any other person dilute or in any manner tamper with the contents of any original package so as to change its composition of alcoholic content while in the original package. Possession on the licensed premises by any licensee of any intoxicating liquor in the original package differing in composition or alcoholic content from the liquor when received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package have been diluted, changed, or tampered with. (Code 1966; Ord. No. 312.12-26-72; Ord. No. 438, 11-28-78; Code of 1988; Code of 2001)

#### **Secs. 4-98--4-102. Reserved.**

*Division 2. License*

**Sec. 4-103. Required.**

No person shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so except wholesalers or manufacturers to the extent authorized under State law. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-104. Classifications.**

The four types of licenses authorized by this Division are “on-sale”, “on-sale club”, “off-sale” and “off-sale brewpub”. The conditions of this Section shall apply to the issuance of these licenses.

(1) ***On-Sale.*** Licenses shall be issued only to hotels and restaurants.

(2) ***On-Sale Club.*** Licenses shall be issued only to clubs.

(3) ***Off-Sale.***

(4) ***Off-Sale Brewpub.*** Licenses shall be issued only to brewpubs. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)(Ord. No. 708, 8-12-03)

**Sec. 4-105. Number Limited.**

The maximum number of "off-sale" licenses shall be one for each 5,000 residents as determined by the most recent Federal census as on file with the State in accordance with Minnesota Statutes, Section 600.18. If the number of licenses is exceeded by reason of a decrease in population to a smaller multiple of 5,000, existing licenses may be retained and renewed. However, upon abandonment, revocation, or termination, no new license shall be granted if the total number of licenses in the City would thereby exceed one for each 5,000 residents. (Code 1966; Code No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 584, 6-9-92; Code of 2001)

**Sec. 4-106. Categories.**

There shall be six categories of "on-sale" liquor licenses authorized to be issued by the City.

(1) ***Small Restaurants.*** Restaurants having an interior public area of not less than 1,500 square feet and not more than 2,499 square feet.

(2) ***Medium Restaurants.*** Restaurants having an interior public area of not less than 2,500 square feet and not more than 4,999 square feet.

(3) ***Large Restaurants.*** Restaurants having an interior public area of 5,000 or more square feet of interior public area.

(4) **Hotels and Motels.** As defined in Minnesota Statutes, Chapter 340A with an interior public area of not less than 4,000 square feet.

(5) **Public Premises.** Sport, convention, or cultural facilities owned by the City.

(6) **Brewpubs.** (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 555, 12-8-87; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 609, 11-12-94; Ord. No. 663, 12-21-99; Code of 2001)

#### **Sec. 4-107. Club Licenses.**

In addition to the authorized licensees as defined in Section 4-106, an on-sale liquor license may be issued to a club. (Code 1966; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

#### **Sec. 4-108. Ineligible Persons.**

No license shall be granted to or held by a person who:

(1) Is under 21 years of age.

(2) Is not of good moral character.

(3) If an individual, is not a citizen of the United States or a resident alien.

(4) Within five years prior to the application for a license, has been convicted of any willful violation of any law of the United States, this State, or any other State or territory, or of any local ordinance regarding the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor.

(5) Has had a liquor license revoked for any willful violation of any law or ordinance.

(6) Is directly or indirectly interested in any other establishment in the City to which an on-sale license has been issued under this Chapter.

(7) If a corporation, does not have a manager who is eligible pursuant to the provisions of this Section.

(8) Is the spouse of a person ineligible for a license pursuant to the provisions of Section 4-108 (1-6).

(9) In the judgment of the City Council, is not the real party in interest or beneficial owner of the business operated or to be operated under the license.

(10) An off-sale license shall not be renewed if:

- A. In the case of an individual, the licensee is not a resident of the Twin Cities Metropolitan Area at the time of the date for renewal.
- B. In the case of a partnership, the managing partner is not a resident of the Twin Cities Metropolitan Area at the time of the date for the renewal.
- C. In the case of a corporation, the manager is not a resident of the Twin Cities Metropolitan Area at the time of the date of renewal.

For purposes of this section, "Twin Cities Metropolitan Area" is defined as being comprised of the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

(11) No person shall own an interest in more than one establishment or business within the City for which an on-sale license has been granted.

- A. The term "interest" as used in this Section includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment.
- B. The term "interest" does not include bona fide loans, bona fide fixed sum rental agreements, bona fide open accounts, or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, or supplies to such establishment; or an interest of ten percent or less in any corporation holding a license.
- C. A person who receives monies from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefor and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in the retail license.
- D. In determining "bona fide", the reasonable value of the goods or things received as consideration for any payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this Section shall be considered. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90, Ord. No. 645, 9-22-98; Code of 2001)

#### **Sec. 4-109. Ineligible Places.**

(1) No license for operation on any premises shall be granted or renewed if taxes, assessments, or other financial claims of the City, the County, or the State are due, delinquent, or unpaid. In the event an action has been commenced pursuant to Minnesota Statutes, Chapter 278 questioning the amount or validity of taxes, upon application of the licensee, the City Council may waive strict compliance with this provision. No waiver may be granted for taxes or any portion thereof that remain unpaid for a period exceeding one year after becoming due.

(2) No license shall be issued for the premises owned by a person to whom a license may not be granted under this Article, except an owner who is a minor, alien, or a person who has been convicted of a crime other than a violation of Minnesota Statutes, Chapter 340A.

(3) No license shall be granted for any place which has a common entrance or exit between any two establishments except that a public concourse or public lobby shall not be construed as a common entrance or exit.

(4) No off-sale license shall be granted for premises that are within one mile of another off-sale licensed premises in the City. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 463, 9-25-79; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 584, 6-9-92; Code of 2001)

#### **Sec. 4-110. Application.**

Application for a license shall be made on a form as prescribed by the City. In addition to the information that may be required by the State, the application shall show:

(1) ***Applicant.*** Whether the applicant is a natural person, corporation, partnership or other form of organization.

(2) ***Type of License.*** Type of license applicant seeks.

(3) ***Person.*** If the applicant is a natural person:

A. True name, place, and date of birth and residence street address of the applicant.

B. Other names the applicant has used or been known by other than the applicant's true name along with dates and places where used.

C. The name of the business if it is to be conducted under a designation, name, or style other than the full individual name of the applicant. In such a case, a copy of the certification, as required by Minnesota Statutes, Chapter 333 and certified by the Clerk of the District Court shall be attached to the application.

D. Whether the applicant is married or single. If married, the true name, place, and date of birth and residence street address of the applicant's present spouse.

E. Whether the applicant and present spouse are registered voters and if so, where.

F. Street address at which applicant and present spouse have lived during the preceding ten years.

G. Name, location, and description of every business or occupation applicant or present spouse have been engaged in during the preceding ten years.

H. Names and addresses of applicant's and spouse's employers and partners, if any, for the preceding ten years.

I. The time, place, and offense for which convicted of any felony, crime, or violation of any ordinance other than traffic by the applicant, the applicant's spouse, or their parent, brother, sister or child.

J. The time, place, and length of time the applicant, the applicant's spouse, or a parent, brother, sister or child of either of them has been engaged as an employee or operator of a saloon, hotel, restaurant, cafe, tavern or other business of a similar nature.

K. Applicant's history of military service. If requested, the applicant shall exhibit all discharge documents.

L. The name, address, and business address of each person who is engaged in Minnesota in the business of selling, manufacturing or distributing intoxicating liquor and who is nearer of kin to the applicant or the applicant's spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law, or who is a brother-in-law or sister-in-law of the applicant or the applicant's spouse.

(4) **Partnership.** If the applicant is a partnership, the names and addresses of all partners and all information concerning each partner as is required of a single applicant in Section 4-110(3). A managing partner or partners shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name under the provisions of Minnesota Statutes, Chapter 333, a copy of the certificate as certified by the Clerk of District Court shall be attached to the application.

(5) **Corporation.** If the applicant is a corporation or other organization applying for an on-sale license:

A. Name, and if incorporated, the State of incorporation.

B. A true copy of the certificate of incorporation, articles of incorporation or association agreement and bylaws and if a foreign corporation, a certificate of authority as described in Minnesota Statutes, Chapter 303.

C. The name of the manager or proprietor or other agent in charge of the premises to be licensed, giving all the information about this person as is required of a single applicant in Section 4-110(3).

D. Notwithstanding the definition of interest as given in Section 4-110(3)J, the application shall contain the name, address, and all information as is required of an individual applicant in Section 4-110(3) for all persons who:

1. As an individual or together with their spouse, or a parent, brother, sister or child, or any of them, own or control an interest in the corporation or association in excess of five percent.

2. Are officers of the corporation or association.

(6) **On-Sale Club.** If the application is for an on-sale club license:

A. The name of the club.

B. Date that club was first incorporated. True copies of the articles of incorporation, bylaws and the names and street addresses of all officers, executive committee, and board of directors.

C. A sworn statement that the club has been in existence for more than fifteen years; or in the event that the applicant is a congressionally chartered veterans organization, in existence for more than ten years. The statement shall be made by a person who has personal knowledge of the facts. In the event that no person can make such a statement, satisfactory documentary proof may be submitted in support of the facts.

D. The number of members.

E. The name of the manager, proprietor, or other person who shall be in charge of the licensed premises together with the same information concerning these persons as is required of a single applicant for an on-sale license as is set forth in Section 4-110(3).

(7) **Legal Description.** The exact legal description of the premises to be licensed together with a plot plan of the area showing dimensions and location of buildings and all "exterior public areas".

(8) **Floor Plan.** A floor plan of the interior of all structures that contain "interior public areas". The plan shall show the dimensions of all "interior public areas" and shall show the intended arrangement and use of all interior space.

(9) **Federal Permit.** If a permit from the Federal government is required by the laws of the United States, whether or not such permit has been issued, and if so required, in which name issued and the nature of the permit.

(10) **Amount Invested.** The amount of investment that the applicant has in the business, building, premises, fixtures, furniture, stock in trade, etc., and proof of the source of such money.

(11) **Financial Interest.** The names and addresses of all persons, other than the applicant, who have any financial interest in the business, buildings, premises, fixtures, furniture or stock in trade; the nature of such interest, amount thereof and terms for payment or other reimbursement. This condition shall apply to, but not be limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lienholders, trustees, trustors, and persons who have co-signed notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant but shall not include persons owning or controlling less than five percent interest in the business, if a corporation.

(12) **References.** The names, residences and business addresses of three persons, residents of the State, of good moral character, not related to the applicant or financially interested in the premises or business, who may be referred to as to the applicant's character or, if information is required of a manager, the manager's character.

(13) **Taxes.** Whether or not all real estate and personal property taxes for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

(14) **Preliminary Plans.** Whenever the application for an on-sale or off-sale intoxicating license or for the transfer thereof is for premises either planned or under construction or undergoing substantial alteration, a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City, no plans need be filed with the application.

(15) **Other Information.** Such other information as the City shall require.

(16) **Signature.** If the application is by a natural person, it shall be signed and sworn to by that person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; if by an unincorporated association, by the manager or managing officer. If the applicant is a partnership, the application, license, bond, or insurance policy shall be made and issued in the name of all partners. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

#### **Sec. 4-111. Premises Requirements.**

(1) In the case of a license for an on-sale or off-sale establishment, no license shall be issued to, renewed, or transferred to any premises that does not comply with the City's Building Code or that is in violation of any State or local laws.

(2) Structural and site improvement requirements may be imposed by the City as a condition for the issuance of a license. These conditions shall be for the protection of the health, safety, and general welfare of the public. Conditions established by this Subsection shall be in addition to the other requirements of State law and this Code. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-112. License Fees.**

(1) The annual license fees shall be categorized as follows:

- A. Small restaurant.
- B. Medium restaurant.
- C. Large restaurant.
- D. Hotel and motel.
- E. Club.
- F. Exterior public area.
- G. Public premises.
- H. Brewpub on-sale
- I. Brewpub off-sale.

(2) The license fee shall be paid in full before the application is accepted. All fees shall be paid into the General Fund. The license fee shall be refunded to the applicant upon rejection of an application or upon withdrawal of the application before approval of the license by the City Council.

(3) The license fees shall be established by resolution.

(4) The fee for an off-sale or on-sale club license shall be pro-rated on a daily basis if the license is granted after the commencement of the license year.

(5) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety days after approval of the license by the City Council or upon the date the building is ready for occupancy, whichever is sooner.

(6) No license fee shall be refunded except in the following instances upon application to the City Council within ninety days from the occurrence of the event. The City Council may in its judgment refund a pro-rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- A. Destruction or damage of the licensed premises by fire or other catastrophe.
- B. Any reason other than license revocation that makes the business unlawful.
- C. The licensee's death.
- D. A change in the legal status of the City making it unlawful for a licensed business to continue.
- E. The licensee ceases to carry on the licensed business.

(7) No additional license fee shall be required where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 555, 12-8-87; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 663, 12-21-99; Code of 2001) (Ord. No. 708, 8-12-03)

**Sec. 4-113. Abandonment.**

A license which is not used for a period of one year at any time after the date of its initial approval by the City Council shall be deemed abandoned and shall automatically terminate. (Code 1966; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 32, 11-27-90; Ord. No. 582, 9-24-91; Ord. No. 584, 6-9-92; Code of 2001)

**Sec. 4-114. Investigation Required.**

The City shall investigate the information requested in Section 4-110 and a written recommendation and report shall be made to the City Council. The City Council may order and conduct additional investigations as it shall deem necessary. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-115. Investigation Fees.**

- (1) The applicant shall pay in full an investigation fee at the time of each original application.
- (2) The licensee shall pay an additional investigation fee at any time that an additional investigation is required because of a change in ownership or control of a corporation or because of an enlargement, alteration, or extension of premises previously licensed.
- (3) Investigation fees shall be established by resolution. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 555, 12-8-87; Code of 1988; Code of 2001)

**Sec. 4-116. Hearing.**

When the investigation of the application is completed, the City shall set a time and date for a public hearing. No public hearing shall be required if the license is only being transferred to a new owner. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-117. Notice of Hearing.**

- (1) A notice of the public hearing shall be published in the official newspaper not less than ten days in advance of the hearing. A copy of the notice shall be posted in a conspicuous place in City Hall for at least ten days immediately preceding the hearing.
- (2) The public hearing notice shall include the time, date, and place of the hearing along with the name of the applicant, the location of the premises where the business is to be conducted, and the nature of the business. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-118. Issuance Conditional.**

A license shall be subject to the provisions of this Chapter and any other applicable provision of this Code, ordinance of the City, or State law. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-119. License Period.**

A license shall be valid for one year beginning on January 1st and ending on December 31<sup>st</sup>. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-120. Renewal.**

(1) Application for renewal shall be made on a form as prescribed by the City. The application may require information that was a part of the initial application.

(2) Application for renewal shall be made at least sixty days prior to the date of the expiration of the license. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for their failure to file for a renewal within the time provided, the City Council may approve the application if there is compliance with the other provisions of this Division. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-121. Transfer.**

(1) No license may be transferred to a new owner without authorization from the City Council.

(2) No license may be transferred to a different location or premises without authorization from the City Council.

(3) An application for the transfer of a license to a new owner or to a different location or premises shall contain all the information required for an initial application. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-122. Display.**

The license shall be posted in a conspicuous place in the licensed establishment at all times. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-123. Sales Restricted.**

(1) No on-sale licensee shall sell intoxicating liquor off-sale.

(2) No off-sale licensee shall sell intoxicating liquor on-sale, except an on-sale licensed brewpub may obtain an off-sale license to sell malt liquor on the licensed premises.

(3) A brewpub licensed to sell malt liquor off-sale is subject to all of the conditions set forth in Minn. Stat. Sec. 340A, subd.7. . (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)(Ord. No. 708, 8-12-03)

**Sec. 4-124. Scope of Premises.**

No license shall be effective beyond the space named in the license for which it was granted. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-125. Ownership of Equipment and Fixtures.**

No equipment or fixture in any licensed premises shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor except such as shall be expressly permitted by State law. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-126. Federal Stamps Prohibited.**

No licensee shall apply for or possess a Federal wholesale liquor dealer's special tax stamp or a Federal gambling stamp. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-127. Prohibited Activities.**

(1) No licensee shall keep ethyl alcohol or neutral spirits on licensed premises or permit their use on the premises as a beverage or mixed with a beverage.

(2) No licensee shall permit any part of the licensed premises to be used for a professional or amateur display of any combative sport. For purposes of this clause, the term “display” shall mean any demonstration, exhibition, match, performance, contest, bout, event, entertainment or similar-style presentation; and the term “combative sport” shall mean boxing; tough person bouts; mixed martial arts; any form of the component activities of mixed martial arts including, but not limited to, Muay Thai, karate, kickboxing, wrestling, grappling, or other recognized martial art; or any similar activity including, but not limited to, mud- wrestling. (Ordinance No 798, 03-22-2011)

**Sec. 4-128. Availability of Business Records.**

The business records of the licensee, including Federal and State tax returns, shall be available for inspection by the City at all reasonable times. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-129. Change in Status of Licensee.**

(1) The licensee shall submit to the City any changes in the corporate or association officers, corporate charter, articles of incorporation, bylaws, or partnership agreement within thirty days after the changes are made.

(2) In the case of a corporation, the licensee shall notify the City when a new person not listed in the application acquires an interest that, together with that of the new person’s spouse, parent, brother, sister or child, exceeds five percent. The information required of the new person shall be pursuant to the provisions of Section 4-120. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-130. Political Contributions.**

Application for renewal shall state the nature and amount of any contribution the applicant has made in the preceding five years for State and local campaign or political purposes, the person to whom the contribution was made, and the person or organization for whom intended. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-131. Principal Business Activity.**

(1) A restaurant licensed under this Division shall be conducted in such a manner that the principal business shall be the serving of food.

(2) A hotel licensed under this Division shall be conducted in such a manner that the serving of food shall be the principal business for that area attributable to the serving of foods and intoxicating liquors. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

#### **Sec. 4-132. Suspension or Revocation.**

- (1) The City Council may suspend or revoke an intoxicating liquor license for violation of any provision or condition of this Chapter or of any State or Federal law regulating the sale of intoxicating liquor.
- (2) The City Council shall revoke a license for:
  - A. Any willful violation that, under the laws of the State, is grounds for mandatory revocation,
  - B. Failure to keep the required insurance in effect.
- (3) The City Council shall hold a public hearing to consider the revocation or suspension. The licensee shall be provided with written notice of the hearing at least ten days before the hearing. The notice shall state the time and place of the hearing, and the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving it with the person in charge at the licensed premises. No suspension after a public hearing shall exceed sixty days. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

#### **Sec. 4-133. Temporary On-Sale License.**

- (1) Bona fide clubs, charitable, religious, or other qualified nonprofit organizations in existence for at least three years may be issued a temporary on-sale intoxicating liquor license for up to three consecutive days upon meeting the requirements specified in this Section.
- (2) The organization or a chartered chapter of the organization must have had a substantial presence in the City for at least three years. The presence may be established by:
  - A. A corporate address in the City.
  - B. Ownership of a building in the City for the conduct of its business and activities.
  - C. A service area with the same boundaries as the City or as any public school district lying wholly or partly within the City.
  - D. A school with residents of the City comprising ten percent or more of its students or other organization with residents of the City comprising ten percent or more of its members.
  - E. A finding by the City Council that other similar factors establish a substantial presence in the community.
- (3) The applicant must complete an application as required by the City and by the Commissioner of Public Safety.
- (4) The applicant must complete all the requirements of the laws and ordinances governing the sale of intoxicating liquor except Minnesota Statutes, Section 340A.49 and those laws and ordinances that by their nature are not applicable.
- (5) The applicant must pay a license fee as established by resolution. The City Council shall have the authority to waive this fee.
- (6) The applicant must satisfy the City Council that there will be adequate policing of the event.
- (7) The license must be for an event sponsored or co-sponsored by the qualified organization.

(8) The license may provide that the licensee contract for intoxicating liquor catering service with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. (Ord. No. 584, 6-9-92; Code of 2001)

**Sec. 4-134. On-Sale License on Public Premises.**

(1) The City Council may issue a license to allow the dispensing of intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City.

(2) The license shall be issued to the holder of an on-sale intoxicating liquor license issued by the City or a municipality adjacent to the City.

(3) The licensee must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the premises and may dispense intoxicating liquor only to persons attending the event. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.

(4) Applicants for a license shall meet the following requirements:

A. Annually apply on a form as prescribed by the City.

B. A public hearing pursuant to Section 4-116 shall not be required for the granting of an on-sale license on public premises.

C. The City Council shall approve the license if the applicant holds a valid on-sale intoxicating license and has committed no violations of State law or municipal ordinances of the cities in which it is licensed regarding the sale of intoxicating liquor during the preceding three years.

D. A license shall remain in effect from its issuance until December 31st of the year in which it was issued. A license issued under this Section is subject to annual renewal.

(5) In addition to the annual license fee established pursuant to Section 4-112 of this Chapter, a licensee shall pay a per-event fee as established by resolution.

(6) If a licensee is selling beer for on-premises consumption, the licensee shall make provision for the sale of at least one Minnesota produced beer at each station on the premises where beer is being sold.

(7) Whenever the City Council determines that a specific event for which the licensee will be providing on-sale intoxicating liquor requires special or unique conditions, the City Council may impose such additional conditions. Compliance with these additional conditions shall be a requirement of the license. (Ord. No. 609, 11-22-94; Code of 2001)

**Secs. 4-135--4-144. Reserved.**

## **Article 6. Bottle Club**

### *Division 1. General*

#### **Sec. 4-145. Persons Served.**

No intoxicating liquor shall be served to an intoxicated person, to a habitual drunkard, or to a person under 21 years of age in any private bottle club. (Code 1966; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

#### **Sec. 4-146. Sale of Liquor.**

No person having a special use permit for a private bottle club shall sell, barter, or lend intoxicating liquor to any member or guest of members. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

#### **Sec. 4-147. Service of Liquor.**

Members of a private bottle club and their guests may be served intoxicating liquors on the premises, but such liquor must be the property of the member being served. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

#### **Sec. 4-148. Transportation and Storage of Liquor.**

Only a member of the private bottle club may transport to or store intoxicating liquors on the premises of the club. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

#### **Sec. 4-149. Sales and Purchases Prohibited.**

There shall be no purchasing, selling, or bartering of any intoxicating liquor between members or any other person on the premises of a private bottle club. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

#### **Sec. 4-150. Hours of Operation.**

Consumption of intoxicating liquor shall not be allowed:

- (1) Between the hours of 2:00 a.m. and 12:00 noon on Sunday.
- (2) Before 8:00 p.m. on any election day in the City.
- (3) Between the hours of 2:00 a.m. and 8:00 a.m. on any weekday. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 464, 10-9-79; Code of 1988; Code of 2001)(Ord. No. 708, 8-12-03)

**Sec. 4-151. Character of Premises.**

There shall be no partitions, boxes, stalls, screen curtains, or other devices which shall obstruct a view of any part of the premises of a private bottle club from the general observation of persons in the room, except that partitions, subdivisions, or panels not higher than 36 inches from the floor may be maintained. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Secs. 4-152--4-158. Reserved.**

*Division 2. Special Use Permit*

**Sec. 4-159. Required.**

It shall be unlawful for any person to establish or maintain a private bottle club without obtaining a special use permit from the City. (Code 1966; Ord. No. 312; 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-160. Persons Ineligible.**

No special use permit required by this Division shall be granted to or held by a person:

- (1) Under 21 years of age.
- (2) Who is not of good moral character or repute.
- (3) Who is not a United States citizen or a resident alien.
- (4) Who has been convicted of any willful violation of any law of the United States or the State or of any local ordinance with regard to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor within five years prior to the application for the special use permit.
- (5) Who has had a liquor license revoked for any willful violation of any of these laws or ordinances.
- (6) Who is a manufacturer or is interested directly or indirectly in wholesaling of intoxicating liquor or the business or operation of any such business.
- (7) Who is directly or indirectly interested in any other private club in the City to which a special use permit has been issued under this division. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 322, 7-24-73; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-161. Places Ineligible.**

- (1) No special use permit shall be issued in an area of the City that is not zoned for business use.
- (2) No special use permit shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City, County, or State are delinquent and unpaid. (Code 1966; Ord. No. 312, 12-26-72; Ord. No. 463, 9-25-79; Code of 1988; Code of 2001)

**Sec. 4-162. Application.**

(1) Application for a special use permit shall be made on a form as prescribed by the City. No application shall contain a false statement. The permit fee shall be paid in full before the application is accepted.

(2) Information contained in the application shall include:

- A. Name, age, and citizenship of the applicant.
- B. Representations as to the applicant's character with references as may be required.
- C. Applicant's connection with the private bottle club and any other related business.
- D. Exact location of the club.
- E. Such other information as may be requested.
- F. In the case of a new structure, a copy of the building plans and a plat that shows the exact location of the premises to be licensed. If the plans are on file with the City, no plans need to be filed with the application.

(3) A certificate of ownership for all property located in the City that is within 200 feet of any boundary line of the proposed premises. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-163. Fee.**

The annual fee shall be established by resolution. All permit fees shall be paid into the General Fund. The fee shall be refunded upon rejection of the application less an amount for investigation of the applicant's qualifications. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 492, 4-13-82; Code of 2001)

**Sec. 4-164. Hearing.**

No special use permit shall be issued until a public hearing has been held on the matter by the City Council. Notice of the hearing shall be published in the official newspaper not less than ten days in advance of the hearing. At least ten days prior to the hearing, the City shall mail a notice of the hearing to each property owner shown on the certificate of ownership at their last known address so that they might appear and be heard. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-165. Insurance.**

The application shall be accompanied by a liability insurance policy providing the coverage specified in Section 4-10. Surety bonds and liability insurance policies shall be approved as to form by the City. Operation of a private club without having on file at all times with the City an effective bond or insurance policy as required in this Section shall be grounds for suspension or revocation of the special use permit. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Ord. No. 582, 9-24-91; Code of 2001)

**Sec. 4-166. Investigation.**

The City shall investigate all facts set out in the application for a special use permit. (Code 1966; Ord. No. 312, 12-26-72; Code of 2001)

**Sec. 4-167. Approval by City Council.**

After the public hearing, the City Council may grant or deny the application for a special use permit for a private bottle club by a majority vote of its members. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-168. Issuance Restricted.**

A special use permit for a private bottle club shall be issued to the applicant only. Each special use permit shall be issued only for the premises described in the application. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-169. Transfer.**

No special use permit for a private bottle club may be transferred to another person or to another place without the approval of the City Council. Requests for transfer shall be accompanied by a transfer fee. The transfer fee shall be established by resolution. The transfer fee shall not be refunded in any event. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-170. Renewal.**

The special use permit shall be renewable each year following its original issuance date. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-171. Permit Conditions.**

The special use permit shall contain such conditions and provisions as the City Council deems necessary under its police power. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-172. Conditional Issuance.**

The special use permit shall be granted subject to the conditions of this Chapter and of any other applicable provisions of the City Code, ordinances, or State law. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-173. Display.**

The special use permit shall be posted in a conspicuous place on the premises at all times. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-174. Responsibility of Permittee.**

The permittee shall be responsible for the conduct of the permittee's business and the conditions of sobriety and order in it. The act of any employee on the premises shall be deemed the act of the permittee as well and the permittee shall be liable to all penalties provided by the City Code equally with the employee. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-175. Scope of Permit.**

No permit shall be effective beyond the compact and the contiguous space named in the permit for which it was granted. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Code of 2001)

**Sec. 4-176. Revocation.**

The City Council may suspend or revoke a special use permit for violation of any provision or condition of this Article. The City Council shall hold a public hearing to consider the revocation or suspension. The permittee shall be provided with written notice of the hearing at least three days before the hearing. The notice shall state the time and place of the hearing, and the nature of the charges against the permittee. (Code 1966; Ord. No. 312, 12-26-72; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Secs. 4-177--4-188. Reserved.**

## **Article 7. On-Sale Wine License**

### *Division 1. General*

#### **Sec. 4-189. Definitions.**

The definitions in this Section shall apply when these words and phrases are used in this Article.

(1) ***On-Sale Wine License.*** A license authorizing the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, and in conjunction with the sale of food.

(2) ***Restaurant.*** An establishment under the control of a single proprietor or manager, having appropriate facilities for serving meals and seating not fewer than 25 guests at one time, and where in consideration of payment, meals are regularly served at tables to the general public and an adequate staff is employed to provide usual and suitable service to the guests.

(3) ***Seating.*** The usual and regularly available seating accommodations for guests of the establishment to sit at tables for the purpose of eating meals. (Code 1966; Ord. No. 370, 5-25-76; Code of 1988; Code of 2001)

#### **Sec. 4-190. Hours of Operation.**

The hours of operation for on-sale wine licenses shall be those specified by State law. (Code 1966; Ord. No. 370, 5-25-76; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Secs. 4-191--4-197. Reserved.**

*Division 2. License*

**Sec. 4-198. License Required.**

No person shall directly or indirectly deal in, sell, or keep for sale any wine without first having a license to do so as provided for in this Article. The exemptions from this Section are:

- (1) Wholesalers or manufacturers to the extent authorized under State law.
- (2) On-sale or off-sale intoxicating liquor licensees in accordance with Chapter 4, Article 5, Division 2. A holder of an on-sale wine license who is also licensed to sell 3.2 percent malt liquor at on-sale and whose gross receipts are at least sixty percent attributable to the sale of food may sell intoxicating malt liquor at on-sale without an additional license. (Code 1966; Ord. No. 370, 5-25-76; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-199. Issuance Restricted.**

On-sale wine licenses shall be issued only to restaurants meeting the requirements of this Article. (Code 1966; Ord. No. 370, 5-25-76; Code of 1988; Code of 2001)

**Sec. 4-200. Unlimited Number.**

The number of on-sale wine licenses that may be issued under this Article shall be unlimited. (Code 1966; Ord. No. 370, 5-25-76; Code of 1988; Code of 2001)

**Sec. 4-201. Procedures and Requirements.**

The provisions of Chapter 4, Article 5, Division 2 shall control and govern the issuance of a license with the exception of Sections 4-103 through 4-107, 4-112 and 4-119, which shall not be applicable. (Code 1966; Ord. No. 370, 5-25-76; Code of 1988; Code of 2001)

**Sec. 4-202. Fees.**

- (1) The annual license fee shall be paid in full before the application is accepted. All fees shall be paid into the General Fund. The fee shall be refunded upon rejection of the application by the City or withdrawal of the application before approved by the City. The refund shall be less an amount for investigation of the applicant's qualifications.
- (2) The annual fees shall be established by resolution. The fee shall be pro-rated on a daily basis for a license granted after the commencement of the license year.
- (3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety days after approval of the license by the City Council or upon the date the building is ready for occupancy, whichever is sooner.

(4) No part of the fee paid for a license shall be refunded except in the following instances upon application to the City Council within thirty days from the occurrence of the event. In its judgement, the City Council may refund a pro-rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- A. Destruction or damage of the licensed premises by fire or other catastrophe.
- B. Any reason other than license revocation that makes the business unlawful.
- C. The licensee's death.
- D. A change in the legal status of the City making it unlawful for a licensed business to continue.
- E. The licensee ceases to carry the licensed business.

(6) No additional license fee shall be required where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged. (Code 1966, Ord. No. 370, 5-25-76; Ord. No. 555, 12-8-87; Code of 1988; Ord. No. 577, 11-27-90; Code of 2001)

**Sec. 4-203. Expiration.**

A license shall expire on the last day of December of each year. (Code 1966; Ord. No. 370, 5-25-76; Code of 2001)

**Editor's Notes**  
**City Code-Chapter 4**  
**Alcoholic Beverages**

This Chapter has been renumbered to be consistent with the numbering system used throughout the Code:

The first division within a Section is numbered “(1)” followed by “(2)”, etc.

The next division of a Section is numbered with an “A” followed by “B”, etc.

As with all other parts of the codification, the language in this Chapter has been simplified and made general neutral.

**Section 4-8. Gambling Prohibition.** This Section has been revised to exclude mention of the municipal dispensary since the City no longer operates a facility.

Margaret A. Egan  
Finance Director/City Clerk  
March 22, 2000