

CHAPTER XII

SALE AND CONSUMPTION OF INTOXICATING LIQUOR,
WINE AND BEER
(Repealed Sections 1200, 1210, 1215 and 1225, Bill No. 2004-8)Section 1202 – General Provisions: License Applications, Eligibility and Restrictions
(Added, Bill No. 2004-8)

1202.01. Definitions. Subdivision 1. The definitions in this subsection will apply when these words and phrases are used in this chapter.

Subd. 2. “Alcoholic beverage” means any beverage containing more than one-half of one percent alcohol by volume.

Subd. 3. “City” means the City of Richfield.

Subd. 4. “Club” or “veterans organization” means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which: (i) has more than 30 members, (ii) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; (iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages as may be fixed and voted each year by the governing body.

Subd. 5. “Commissioner” means the commissioner of public safety of the state of Minnesota.

Subd. 6. “Director” means the director of public safety or the director’s designee.

Subd. 7. “Hotel” means an establishment where food and lodging are regularly furnished to transients and which has: (i) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and (ii) not fewer than 125 guest rooms, each room having an area of no less than 150 square feet. (Amended, Bill No. 2008-8)

Subd. 8. “Intoxicating liquor” or “liquor” means ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 9. “Liquor stores” means the municipal liquor stores.

Subd. 10. “Minor” means a person under the age of 21.

Subd. 11. “Off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subd. 12. “On-sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 13. “Restaurant” means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having appropriate facilities for serving no fewer than 40 guests at one time.

Subd. 14. The terms “sale” and “sell” and “sold” include and refer to all barter and all manner of furnishing alcoholic beverages, including such furnishing in violation or evasion of law.

Subd. 15. “3.2 percent malt liquor” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 16. “Wine” is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for non-industrial use.

1202.03. State law adopted. Except as modified by this chapter, the provisions of Minnesota Statutes chapter 340A are adopted by reference.

1202.05. License. Subdivision 1. General rule. No person, except wholesalers or manufacturers authorized under state license, may directly or indirectly deal in, sell, or keep for sale any alcoholic beverages without first having received a license to do so as provided in this section.

Subd. 2. License term. All licenses are effective January 1 through December 31.

Subd. 3. Types of licenses. The following types of licenses will be issued by the City:

(a) 3.2 percent malt liquor.

(1) On-sale. The city may issue on-sale licenses to restaurants, hotels, clubs and establishments having food licenses, provided that no 3.2 percent malt liquor manufacturer or wholesaler has any interest in such business. No more than 15 on-sale licenses will be issued.

(2) Off-sale. The city may issue off-sale licenses for the sale of 3.2 percent malt liquor for consumption off the premises.

(3) Temporary on-sale. The city may issue temporary on-sale licenses to clubs, or charitable, religious or non-profit organizations for the sale of 3.2 percent malt liquor. A temporary license for the sale of 3.2 percent malt liquor is effective for a single period of not more than 12 consecutive hours. Only three temporary licenses may be issued to a single applicant in one calendar year.

(b) Intoxicating liquor.

(1) On-sale. The city may issue on-sale intoxicating liquor licenses only to hotels, restaurants, and clubs. No more than 15 licenses may be issued, excluding licenses issued to clubs.

(2) Temporary on-sale. The city may issue temporary licenses for the on-sale of intoxicating liquor to (a) a club or charitable, religious, or other nonprofit organization in existence for at least 3 years; (b) a political committee registered under Minn. Stat. § 10A.14, or (c) a state university in connection with a social event within the city sponsored by the licensee. The temporary license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The temporary license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality.

(3) Additional restrictions on temporary licenses. Temporary licenses for the on-sale of intoxicating liquor are subject to the following additional restrictions:

(a) The city may not issue more than three four-day, four three-day, six two-day, or 12 one-day licenses, in any combination not to exceed 12 days per year to any one organization or registered political committee, or for any one location, within a 12-month period;

(b) The city may not issue more than one license to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community celebration by the municipality;

(c) If the city issues separate temporary wine and liquor licenses, the city may separately apply the limitations in paragraphs (a) and (b) to the issuance of such licenses to any one organization or registered political committee, or for any one location.

(c) Sunday Sales.

(1) Hotels, restaurants and clubs that hold an on-sale intoxicating liquor license and that have facilities for serving not less than 40 guests at one time, may obtain a Sunday sales license and serve alcoholic beverages between the hours of 10:00 a.m. Sunday and 2:00 a.m. Monday in conjunction with the serving of food.

(2) No separate public hearing, bond, investigation fee or insurance is required for a Sunday sales license.

(3) An applicant for a Sunday sales license may adopt, and need not repeat, the information contained in its on-sale license application, for use in its Sunday license application.

(d) Wine.

(1) On-sale wine licenses may be issued to restaurants. (Amended, Bill No. 2008-8)

(2) No more than twelve wine licenses may be issued. (Amended Bill No. 2007-18)

1202.07. License Eligibility. Subdivision 1. Ineligible person. No license may be granted to or held by:

(a) any person who is ineligible for a license under state law;

(b) any person who is under the age of 21 years of age;

(c) any person who is not of good moral character and repute;

(d) any person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;

(e) any person who, within five years of the license application, has been convicted of a felony or any willful violation of a federal or state law or local ordinance, governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage, or whose liquor license has been revoked for any willful violation of any such laws or ordinances;

- (f) any person who has a direct or indirect interest in a manufacturer, brewer or wholesaler;
- (g) any person who is directly or indirectly interested in any other establishment in the city to which a license has been issued under this chapter; the term "interested" as used in this paragraph means and includes any pecuniary interest in the ownership, operation, management or profits of such an establishment;
- (h) any person who is the spouse of a person ineligible for a license under this section; and
- (i) any person who, 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.

Subd. 2. Ineligible places. No license shall be granted to or held by:

- (a) any premises upon which taxes or assessments or other financial claims of the city or of the state are due, delinquent and unpaid. The city council may, upon request by the applicant or licensee, waive strict compliance with this provision if the applicant or licensee has contested their tax liabilities or other financial claims through a process permitted by federal or state regulations or by city ordinance; or is working out debt problems under the supervision of a bankruptcy court or pursuant to some other formal agreement. No waiver may be granted, however, if taxes or any portion thereof, remain unpaid for a period exceeding one year after becoming due; or
- (b) any premises owned by a person who is ineligible under this chapter. Premises are not disqualified if the sole basis for disqualification is that the owner is a minor; or
- (c) with respect to an on-sale intoxicating liquor license, any premises that has a common entrance or exit between the area in which intoxicating liquor will be sold and any other business or establishment. A public concourse or lobby shall not be construed as a common entrance or exit for purposes of this subsection. (Added, Bill No. 2008-8)

Subd. 3. Specific entities. (a) Corporations. A corporation is ineligible for a license or a license renewal if any of its officers or managers are ineligible for a license under this subsection.

- (b) Restaurants. An on-sale intoxicating liquor license may not be granted to a restaurant which does not have a total market value, including land and buildings, of at least \$600,000. (Amended, Bill 2009-2)
- (c) Hotels. A license may not be granted to a hotel which does not have a total market value, including land and buildings, of at least \$1,000,000.
- (d) Veterans organization or club. A veterans organization or club that does not limit access to the organization's facilities to members and their bona fide guests is not eligible for a license.

1202.09. License applications; in general. Subdivision 1. Filing. License applications must be filed with the director at least 60 days prior to the time that the business will open.

Subd. 2. Contents of application. All license applications must contain the following information:

- (a) Whether the applicant is a natural person, corporation, partnership, or other form of organization;
- (b) The street number where the sale of liquor is to be conducted and the rooms where liquor is to be consumed; a floor plan of the licensed premises, including all rooms and areas where liquor is to be consumed;
- (c) Financial data acceptable to the city showing the amount of investment that the applicant has in the business, building, premises, fixtures, furniture, stock in trade and similar items, and proof of the source of such money;

- (d) 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, including, but not limited to, any lessees, lessors, mortgagees, mortgagors, lenders, lien holders, trustees, trustors, and persons who have co-signed notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant; and the name of such interest, the amount of the interest; terms for payment or other reimbursement;
- (e) 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 for which such taxes are delinquent;
- (f) Copies of any agreements relating to the payment of taxes;
- (g) If the application of a license is for premises planned, under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed, unless such plans are already on file with the inspections division of the city;
- (h) Proof that the applicant has complied with all of the procedures required under the zoning regulations of the city to qualify the proposed licensed premises as an approved location; the council will not act upon an license application until the applicant has complied with all such regulations and the council has given final approval of the site and building plans; and
- (i) Any other information that the city council requires.

Subd. 3. Additional information: natural persons. If the applicant is a natural person, the following information shall be furnished:

- (a) true name, place and date of birth, and street residence address of the applicant;
- (b) whether the applicant has ever used or been known by a name other than the applicant's true name, and if so, what was such name, or names, and information concerning 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;
- (d) whether the applicant is married or single; if married, true name, place and date of birth and street residence address of the applicant's present spouse;
- (e) street addresses at which the applicant and present spouse have lived during the preceding ten years;
- (f) whether the applicant or the applicant's spouse, or the manager and all persons holding or possessing an interest in the business to be licensed, have ever been convicted for violation of any law of the United States, State of Minnesota, or any other state or territory or any municipal ordinance;
- (g) whether the applicant or applicant's spouse has ever been engaged as an employee or in operating a saloon, hotel, restaurant, cafe, tavern or other business of a similar nature, and if so, the applicant must furnish information as to the time, place and length of time;

(h) the name, home 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 whole or half blood, or who is a brother-in-law or sister-in-law of the applicant or applicant's spouse.

Subd. 4. Additional information: partnership. If the applicant is a partnership, the application must provide the names and addresses of all partners and all information concerning each partner as required under this subsection of a natural person applicant or corporate applicant, as may be applicable. A managing partner or partners must be designated, the interest of each partner in the business must be disclosed, and a true copy of the partnership agreement must be submitted with the application.

Subd. 5. Additional information: corporation. If the applicant is a corporation or other organization, the following information must be furnished:

- (a) the corporate 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;
- (c) the name of the manager or proprietor or other agent in charge of the premises to be licensed, giving all the information about said person as is required of a natural person in subdivision 3 of this subsection;
- (d) a list of all natural persons who, singly or together with their spouse, or a parent, brother, sister or child of either of them, own or control an interest in said corporation or association in excess of 5%, or who are officers of said corporation or association, together with their addresses and all other information required of a natural person in subdivision 3 of this subsection.

Subd. 6. Execution of application. An application must be executed as follows:

- (a) an application by a natural person, by that person;
- (b) an application by a corporation, by an officer of the corporation;
- (c) an application by a partnership, by a partner;
- (d) an application by an incorporated association, by the manager or managing officer.

1202.11. License fees. Subdivision 1. Amounts. License fees are established by the city council and are fixed in appendix D to this code.

Subd. 2. Payment. An applicant for any license must pay the total license fee when the application is filed. License fees will be paid into the general fund of the city. Upon rejection or withdrawal of any application for a license, the license fee will be refunded to the applicant except where rejection or withdrawal is for a willful misstatement in the license application.

Subd. 3. Investigation fee.

(a) In general. At the time of each original application for a license, the applicant must also pay an investigation fee set by appendix D. If the expenses of the investigation exceed the investigation fee, the director will notify the applicant and require the applicant to pay an additional investigation fee as provided in appendix D which the director deems necessary to complete the investigation of the applicant. The applicant must pay any additional investigation fee within five days after notification and before the license will be issued. If such additional investigation fee is not paid within the five day period, the city will give no further consideration to the application.

(b) Exceptions. The city will not charge an investigation fee for a Sunday license. The city will provide a partial or complete waiver of any applicable investigation fee if all of the following conditions exist:

- (1) the applicant is a fraternal, veterans, or charitable organization;
- (2) revenues in excess of operating expenses are contributed to the support of community projects or programs; and
- (3) the officers of the organization are elected by and responsible to the general membership.

Subd. 4. Refunds. No part of a license or investigation fee shall be refunded except in accordance with this subsection or city council action.

Subd. 5. Additional investigation. If additional investigation is required because of a change in the ownership, interest or control of a partnership or a corporation, or other reasons determined necessary by the director, the applicant must pay an additional investigation fee as provided in appendix D.

1202.13. Liability insurance. Subdivision 1. General requirement. No license may be issued unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by Minnesota Statutes section 340A.801. This subsection also applies to the municipal liquor stores as described in Section 1220 of this Chapter.

Subd. 2. Proof of financial responsibility. Proof of financial responsibility must be submitted to the director at the time of application for a new license or renewal of an existing license and may be given by filing:

- (a) A certificate of insurance that there is in effect an insurance policy issued by an insurer required to be licensed under Minnesota Statutes section 60A.07, subdivision 4, or by an insurer recognized as an eligible surplus lines carrier pursuant to Minnesota Statutes section 60A.206 or pool providing at least \$300,000 of coverage because of bodily injury to any one person in any one occurrence, \$1,000,000 because of bodily injury to two or more persons in any one occurrence, \$100,000 because of injury to or destruction of property of others in any one occurrence, \$300,000 for loss of means of support of any one person in any one occurrence, and \$1,000,000 for loss of means of support of two or more persons in any one occurrence; or
- (b) A bond of a surety company with minimum coverages as provided in paragraph (a); or
- (c) A certificate of the state treasurer that the licensee has deposited with the state treasurer \$300,000 in cash or securities which may be purchased by savings banks or for trust funds having a market value of \$300,000.

Subd. 3. Payment and coverage.

- (a) The insurance policies must provide that no payment of any claim by the insurance company will in any manner decrease the coverage provided for any other claim or claims brought against the insured or the insurer.
- (b) The insurance policies must provide coverage for claims arising out of incidents on both the interior and exterior of the licensed premises.
- (c) If the application for a license under this chapter is for a new license or a renewal, the applicant must provide proof of insurance valid from January 1 through December 31. If the application is for a license for any portion of a year, the applicant must provide proof of insurance valid from the date of approval of the license through December 31.

Subd. 4. Exclusions. The insurance requirements in this subsection do not apply to licensees who by affidavit establish that:

- (a) they are on-sale 3.2 percent malt liquor licensees with sales of less than \$25,000 of 3.2 percent malt liquor for the preceding year;
- (b) they are off-sale 3.2 percent malt liquor licensees with sales of less than \$50,000 of 3.2 percent malt liquor for the preceding year;
- (c) they are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year; or
- (d) they are holders of temporary wine licenses issued under law.

Subd. 5. Partnership. In the case of a partnership, any required bond or insurance policy must be in the name of all partners.

1202.15. Granting of licenses. Subdivision 1. Recommendation by director of public safety. Applications for licenses will be referred to the director and to such other city departments as the city manager deems necessary, for verification and investigation of the facts set forth in the application. The director will make such investigation of the information requested in subsection 1202.09 as necessary and will make a written recommendation and report to the council which will include a list of all violations of federal or state law or municipal regulations.

Subd. 2. Public hearing.

- (a) A public hearing will be held for original applications on annual licenses. Upon completion of the director's preliminary report, the council will instruct the city clerk to publish a notice of the hearing in the official newspaper ten days in advance of the hearing to be held by the city council. The notice must set forth the day, time and place where the hearing will be held, the name of the applicant, the premises where the business is to be conducted, and such other information as the council may direct.
- (b) At the hearing, opportunity will be given to any person to be heard for or against the granting of the license. The applicant or applicant's representative must be present at the hearing to provide such additional information as may be required by the council. Failure to be present at the meeting is grounds for denial of the application.

(c) After the hearing, the council may either grant or deny the license. If the council grants the license, the council may withhold its issuance until the applicant is fully-qualified for the license. If the premises to be licensed are not complete at the time that the hearing is conducted, the council may grant the license but will withhold its issuance until the premises have been completed in accordance with the representations made by the applicant. If a license has been granted but its issuance has been withheld pending completion of the premises to be licensed, and if the licensee does not complete the premises within a reasonable time, the council may rescind its action granting the license. Before the council takes such action, however, it must give the licensee at least eight days' mailed notice of the time and place of a hearing on the proposed rescission.

1202.17. Renewal applications. Subdivision 1. Time. Applications for the renewal of a license must be filed with the director at least 60 days prior to the date of the expiration of the license. If in the judgment of the council good and sufficient cause is shown by any applicant for failure to file for a renewal within the time provided, the council may, if the other provisions of this section are complied with, waive this requirement and grant the application.

Subd. 2. Statement for food sales. At the time a restaurant or hotel submits a renewal application for an on-sale license, the applicant must file with the director a statement made by a certified public accountant that shows the total alcohol sales and the total food sales of the restaurant or hotel for the 12-month period immediately preceding the date for filing the renewal application.

1202.19. Revocation. Subdivision 1. General. The city council may suspend or revoke a liquor license for the violation of any provision or condition of this section or of any state law or federal law regulating alcoholic beverages and will revoke a license for any willful violation which, under state law, is grounds for mandatory revocation.

Subd. 2. Procedure. The city council will follow the revocation and suspension procedures in Minnesota Statutes, section 340A.415.

1202.21. License restrictions. Subdivision 1. All licenses are subject to the restrictions in this subsection, unless otherwise provided.

Subd. 2. Hours of operation.

(a) No sale of alcoholic beverages may be made:

- (1) between the hours of 2:00 a.m. and 10:00 a.m. on Sunday; and
- (2) between the hours of 2:00 a.m. and 8:00 a.m. on Monday through Saturday.

(b) Any establishment that keeps or sells alcoholic beverages must be closed to the public by 2:00 a.m. After 2:00 a.m., no person may remain on the premises, except the owner or licensee, or the owner's or licensee's agents or employees only for the purpose of cleaning, preparing meals, making repairs or performing other work-related duties.

(c) It is unlawful for alcoholic beverages to be drunk or consumed on the licensed premises during the times when the sale of alcoholic beverages is prohibited. During the times that such sale is prohibited, no alcoholic beverages are permitted to be on any table, booth, bar, or other place in the licensed premises.

Subd. 3. Laws and ordinances. All licenses are subject to the provisions of this section and of any other applicable ordinance or law.

Subd. 4. Posting. The written license must be posted in a conspicuous place in the licensed premises at all times.

Subd. 5. Conduct. The licensee is responsible for the conduct of the place of business and for the conditions of sobriety and order in the place of business and on the premises.

Subd. 6. No combination sales.

(a) On-sale licensees may not sell alcoholic beverages off-sale.

(b) No 3.2 percent malt liquor licensee may permit the consumption of intoxicating liquor on the licensed premises, unless licensed to do so. The holder of an on-sale wine license issued pursuant to state law and this Code who is also licensed to sell on-sale 3.2 percent malt liquor pursuant to state law and this Code, and whose gross receipts are at least sixty (60) percent attributable to the sale of food and non-alcoholic beverages is authorized to sell intoxicating malt liquor at on-sale without an additional license, provided that valid sales figures are submitted to the public safety director at the time the on-sale wine license is renewed. (Amended, Bill No. 2008-8)

Subd. 7. Applicant only. All licenses must be issued to the applicant only.

Subd. 8. No transfer of licenses.

(a) Licenses may not be transferred to a different person, location, or premises.

(b) A transfer is deemed to occur if:

(1) there is a change in the business structure or organization of the licensee, including, but not limited to, changes in the corporate or association officers, charter, articles of incorporation, bylaws or partnership agreement;

(2) there is a change in the legal or beneficial ownership of corporate stock which, together with the interest of a spouse, parent, brother, sister, or child, involves 5% or more of the corporate stock;

(3) there is a grant of any power of attorney, voting proxy, pledge or other assignment of the voting rights of corporate stock which will affect alone, or in conjunction with any other assignment to the same assignee, their spouse, parents, brother, sister, or child, 5% or more of the voting shares of stock;

(4) there is the creation of any new pecuniary interest in the ownership, operation, management, or profits of the licensed business; or

(5) there is the existence of any other situation whereby individuals other than those listed in the original license application acquire a role in the management, operation or profits of the licensed business.

(c) Upon the occurrence of any corporate change in paragraph (b), a new license application and required fees containing all of the information required under subsection 1202.09 must be filed with the director.

(d) Notification of any corporate change in paragraph (b) must be submitted to the director not less than 30 days before such changes are to be made.

Subd. 9. Licensed area. A license shall be issued only for the premises described in the application and is not effective beyond the compact and contiguous space shown in the application.

Subd. 10. Employment of Minors.

- (a) Except as provided in this subdivision, no person under 18 years of age may be employed in a place where alcoholic beverages are sold for consumption on the premises.
- (b) Persons under 18 years of age may be employed as musicians or in bussing or washing dishes in a restaurant, hotel, club, or other establishment, provided that the person under the age of 18 may not serve or sell any alcoholic beverages.
- (c) No person under 18 years of age may offer for sale, sell, or in any way assist in the sale of alcoholic beverages for consumption off the premises. This prohibition does not apply to activities merely incidental to the sale of alcoholic beverages, such as stocking shelves or carrying alcoholic beverages from the establishment at a customer's request.

Subd. 11. Illegal sales. Alcoholic beverages may not be sold, furnished or delivered to any obviously intoxicated person, to a minor or to any person to whom sale is prohibited by state law.

Subd. 12. Gambling prohibited. No licensee or any employee of a licensee may keep, possess, or operate or permit the keeping, possession or operation on the licensed premises, or in any room adjoining the licensed premises of any gambling device as defined in Minnesota Statutes, section 349.30, or any gambling device or apparatus which is capable of being used for unlawful gambling. This subdivision does not prevent lawful gambling on the licensed premises for which a license has been obtained pursuant to Minnesota Statutes, section 349.16.

Subd. 13. Prostitution. No licensee or any employees may knowingly permit the licensed premises or a room in those premises or any adjoining building directly or indirectly under the licensee's control to be used as a resort for prostitutes.

Subd. 14. Nudity.

- (a) It is unlawful for any person on premises licensed under this chapter to:
 - (1) Employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing so as to expose or to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft or the buttocks, vulva or genitals.
 - (2) Employ or use services of any host or hostess while such host or hostess is unclothed or in such attire, costume or clothing as described in paragraph (1) above.
 - (3) Employ or use any dancers, musicians or other performers or entertainers, who are unclothed or in such attire, costume or clothing as described in paragraph (1) above.
 - (4) Directly or indirectly sponsor any contests which may foreseeably cause, result in, or lead to the occurrence of the acts or incidents described in paragraph (6) below.
 - (5) Encourage or permit any person on the licensed premises to touch, caress or fondle breast, buttocks anus or genitals of any employee of the licensee or any performers or entertainers who are employed or whose services are used by the licensee.

- (6) Permit any person to perform acts of or acts which simulate:
- a. With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual act which is prohibited by law.
 - b. Masturbation or bestiality.
 - c. With or upon another person the touching, caressing or fondling of the buttocks anus, genitals or female breasts.
 - d. The displaying of pubic hair, anus, vulva, genitals or female breasts below the top of the areola.
- (7) Permit any person to use artificial devices or inanimate objects depicting any of the prohibited activities described in this subdivision.
- (8) Permit any person to remain in or upon the licensed premises, or any area owned or controlled by the licensee upon the licensee's premise, who permits the public to view any portion of their genitals or anus.
- (9) Permit the showing of film, still pictures, electronic reproduction or other visual reproduction depicting:
- a. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
 - b. Any person being touched, caressed or fondled on the breast, buttock, anus, or genitals.
 - c. Scenes wherein a person displays the vulva, 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 prohibited activities described in this subdivision.

(b) The provisions of this subdivision do not apply to any theatrical production performed in a theater by a professional theatrical or musical company which has serious artistic merit.

(c) Both the licensee and the person(s) actually engaging in any of the acts prohibited by paragraph (a) of this subdivision will be criminally liable. Any violation of this subdivision will also constitute grounds for revocation or suspension of the licensee's license.

Subd. 15. Inspections.

(a) A properly designated officer or employee of the city may enter, inspect and search the licensed premises during business hours without a warrant.

(b) A properly designated officer or employee of the city may inspect the business records of the licensee, including federal and state tax returns, at all reasonable times.

Subd. 16. Display. No licensed establishment may display alcoholic beverages to the public during hours when the sale of liquor is prohibited by this chapter.

Subd. 17. Federal stamp. A licensee may not apply for or possess a federal wholesale or retail liquor dealer's special tax stamp or a federal gambling stamp.

Subd. 18. Food requirements. (Amended, Bill No. 2008-8)

- (a) Restaurants licensed under this chapter must be conducted such that of the total alcohol and food sales, more than fifty (50) percent of that total is derived from business activities related to the serving of food.
- (b) Hotels licensed under this chapter must be conducted such that of the total alcohol and food sales, more than twenty (20) percent of that total is derived from business activities related to the serving of food. A hotel licensee must make food available for purchase or consumption at any time that alcoholic beverages are sold or served by the licensee.
- (c) A licensee holding a wine license under this section shall not allow any person to consume wine unless the wine is consumed with a meal.

Subd. 19. Notice required.

(a) All licensed establishments, and municipal liquor stores, must post and maintain in a conspicuous place within the licensed premises clearly visible to consumers: one sign 14 – ½ inches wide by 8 inches high as designed by the commissioners of health and public safety, which incorporates the following information:

- (1) the penalties of driving while under the influence of alcohol;
- (2) the penalties for serving alcoholic beverages to a person who is obviously intoxicated or under 21 years of age; and
- (3) a warning statement regarding drinking alcohol while pregnant.

(b) The licensee or municipal liquor store may not modify the sign as designed by the commissioners of health and public safety, but may modify the color of the sign.

Subd. 20. Original package. A licensee may not sell, offer for sale, or keep for sale, alcoholic beverages in any original package which has been refilled or partly refilled. No licensee may in any manner tamper with the contents of an original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any alcoholic beverage in the original package differing in the composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased will be prima facie evidence that the contents of the original package has been diluted, changed or tampered with.

Subd. 21. Delivery prohibited. Licensed establishments may not deliver alcoholic beverages off the licensed premises.

1202.23. Enlargement, alteration or extension of licensed premises. The proposed enlargement, alteration or extension of any licensed premises must be reported to the director at or before the time an application is made for a building permit for the change. The licensee must also provide any additional information as required by subsection 1202.09.

Section 1204 – Minors
(Added, Bill No. 2004-8)

1204.01. Adoption of state law. Minnesota Statutes sections 340A.503 and 340A.412, subdivision 10 are adopted by reference and apply to all retail liquor establishments, including the municipal liquor stores.

1204.03. Restrictions involving minors. Subdivision 1. General prohibitions. No licensee, its agent or employee or a municipal liquor store, may sell, serve, or dispense alcoholic beverages to a minor. No licensee, its agent or employee or a municipal liquor store, may permit a minor to be furnished or to consume any alcoholic beverages on the licensed premises.

Subd. 2. Giving or procuring for minors. No person may give, procure or purchase, alcoholic beverages for a minor.

Subd. 3. Inducing. No person may induce a minor to purchase or procure alcoholic beverages, unless the inducement is related to a legitimate law enforcement purpose.

Subd. 4. Possession. No minor may be in possession of any alcoholic beverage for his or her own consumption or for consumption by any other person. Possession by a minor of any alcoholic beverage will create a rebuttable presumption of intent to consume.

Subd. 5. Misrepresentation of age. No minor may misrepresent his or her age for the purpose of obtaining or purchasing alcoholic beverages.

Section 1205 - Consumption and display

1205.01. Statutes adopted by reference. Minnesota Statutes section 340A.414 regulating the licensing of establishments for the consumption and display of intoxicating liquor is adopted by reference. (Amended, Bill No. 2004-8)

Section 1208 – Specific Conditions for Intoxicating Liquor Licenses

(Added, Bill No. 2004-8)

1208.01. Employee Licenses. Subdivision 1. General Rule. All employees of a premises licensed under this section, including, but not limited to, managers, bartenders, and wait persons, who serve or dispense alcoholic beverages in any manner must be licensed by the city. An employee must apply for the license within seven days after being first employed.

Subd. 2. Application. An employee must complete the application provided by the city. The application must contain the following information:

- (a) a history of the applicant's addresses for the last five years;
- (b) the record, if any, of any arrests and convictions for crimes and misdemeanors, other than traffic offenses.

Subd. 3. Review of application. The director will review and investigate the facts in the application, and either approve or deny the license. If the director approves the license, it will be issued immediately. If the director denies the license, the applicant may request a hearing before the city council and may offer evidence to show that the license should be issued.

Subd. 4. Ineligibility for license. If, within ten (10) years of the license application, the applicant has been convicted of a felony or any willful violation of a federal or state law or local ordinance, governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage, or has knowingly falsified information in the application, the applicant is not eligible for a license.

Subd. 5. Revocation. The city may revoke an employee's license for any violation of this chapter or Minnesota Statutes section 340A, or for any conviction of any crime or misdemeanor involving moral turpitude.

Subd. 6. License term. An employee license is valid for two years from its issuance.

Subd. 7. License fee. The fee for an employee license is set by the city council and is as provided in appendix D to this code.

Section 1220 - Municipal liquor stores

1220.01. (Repealed, Bill No. 2004-8)

1220.03. Liquor stores established and continued. The municipal liquor stores, established pursuant to council resolution dated January 30, 1943, are hereby established and continued. (Amended, Bill No. 2004-8)

1220.05. Locations. The liquor stores will be located at a suitable place or places in the city as the council determines. The location sites and facilities may be either leased or owned by the city. (Amended, Bill No. 2004-8)

1220.07. Regulations: liquor operations director established. The liquor stores will be in the immediate charge of the liquor operations director. Policies relating to the operation of the liquor stores will be determined by the city council. The liquor operations director will be assisted by such other employees as the council may authorize. The liquor operations director will have full charge of the liquor stores and will have authority to purchase supplies as are necessary. (Amended, Bill No. 2004-8)

1220.09. Hours of business. The liquor stores may be open for business only during the days and hours authorized by law. (Amended, Bill No. 2004-8)

1220.11. Limitations. No business other than the sale of alcoholic beverages and other items offered for sale at the liquor stores may be carried on by the liquor operations director and employees while they are so employed. (Amended, Bill No. 2004-8)

1220.13. Payment for merchandise. Checks may be accepted in payment for merchandise, in the discretion of the liquor operations director, provided such checks are for the purchase price of the merchandise only. Credit cards issued by national credit companies which have entered into credit agreements with the city, may also be accepted in payment for merchandise, in the discretion of the liquor operations director. No other form of credit may be advanced by the liquor stores. (Amended, Bill No. 2004-8)

1220.15. Clean conditions required. The liquor stores must be kept in a clean and sanitary condition. (Amended, Bill No. 2004-8)

1220.17. Consumption on premises prohibited. No alcoholic beverages may be sold for consumption on liquor store premises. (Amended, Bill No. 2004-8)

1220.19. Loitering prohibited. Habitual loitering about a liquor store is prohibited. (Bill No. 2004-8)

1220.21. Delivery prohibited. Alcoholic beverages may not be sold or delivered by liquor store employees or any agents thereof, except on the liquor store premises. (Amended, Bill No. 2004-8)

1220.23. (Repealed, Bill No. 2004-8)

1220.25. Liquor store fund. The liquor store fund established pursuant to council resolution dated January 30, 1943, is hereby established and continued. All revenues received from the operation of the liquor stores will be paid into such fund and all operating expenses will be paid out of such fund, subject to the provisions of the city charter. (Amended, Bill No. 2004-8)

1220.27. Sale prohibited. Intoxicating liquor may not be sold off-sale at retail, or by any liquor store employee, in the city except at the liquor stores. (Amended, Bill No. 2004-8)

1220.29. (Repealed, Bill No. 2004-8)

1220.31. (Repealed, Bill No. 2004-8)