

Chapter 4. Alcoholic Beverages

Section 400 - Definitions

400.01 Definitions. As used in this Chapter, the following terms shall mean:

Subd. 1 Alcoholic Beverage. “Alcoholic Beverage” shall mean any drink containing either intoxicating liquor or malt liquor as those terms are defined in this Section.

Subd. 2 Club. “Club” shall mean 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 has more than 50 members; 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; and 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 fixed and voted each year by the governing body.

Subd. 3 Exclusive Liquor Store. “Exclusive Liquor Store” shall mean an establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, malt liquor, beverages for mixing with intoxicating liquor, and soft drinks may also be sold, and the establishment may offer recorded live entertainment and make available coin operated amusement devices. It may also include an on-sale or combination on-sale and off-sale intoxicating liquor establishment which sells food for on premises consumption when authorized by the municipality issuing the license.

Subd. 4 Hotel. “Hotel” shall mean an establishment with resident, proprietor or manager, where for payment food and lodging is regularly furnished to transients and which maintains for use of its guests not less than 25 guest rooms with bedding and other suitable and necessary furnishings in each room, and which has a main entrance with suitable lobby, desk and office for the registration of guests, and which employs an adequate staff to provide management and control as the rest of the establishment, and as an integral part thereof, a dining room with appropriate facilities for seating not less than 30 guests at one time on a regular basis where the general public is, in consideration of payment, served with meals at tables.

Subd. 5 Intoxicating Liquor, or Liquor. “Intoxicating Liquor”, or “Liquor” shall mean ethyl alcohol and any distilled, fermented, spirituous, vinous or malt liquid of any kind, potable as a beverage, containing an alcoholic content in excess of 3.2% thereof by weight or 4% by volume.

Subd. 6 Malt Liquor. “Malt Liquor” shall mean any beer, ale or other beverage made from malt by fermentation and containing not less than one-half of 1% alcohol by volume.

Subd. 7 Minor. “Minor” shall mean any person under the age of twenty-one (21) years of age pursuant to Minnesota Statutes, Chapter 340A.

Subd. 8 Off-Sale. “Off-Sale” shall mean sale of alcoholic beverages in original packages for consumption off the licensed premises.

Subd. 9 Off-Sale Licensee. “Off-Sale Licensee” shall mean a person, corporation or partnership having an off-sale license for the sale of alcoholic beverages from the City.

Subd. 10 On-Sale. “On-Sale” shall mean the sale of alcoholic beverages by the glass for consumption on the premises only.

Subd. 11 On-Sale Licensee. “On-Sale Licensee” shall mean a person, corporation or partnership having an on-sale license for the sale of alcoholic beverages from the City.

Subd. 12 On-Sale Wine Licensee. “On-Sale Wine Licensee” shall mean a person, corporation or partnership having an on-sale wine license from the City for the sale of wine on the licensed premises.

Subd. 13 Package. “Package” shall mean a sealed or corked container of alcoholic beverages.

Subd. 14 Restaurant. “Restaurant” shall mean an establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals of not less than 30 guests at one time on a regular basis and where, in consideration of payment therefor, meals are regularly furnished at tables to the general public, and which employs an adequate staff to provide as usual and suitable service to its guests.

Subd. 15 Sale. “Sale” shall mean all barter and all manners or means of furnishing alcoholic beverages including such furnishings in violation or evasion of law.

Subd. 16 Special Sunday License. “Special Sunday License” shall mean a license issued to an on-sale licensee to sell alcoholic beverages by the glass for consumption on the premises only on Sundays, in conjunction with the serving of food by the licensee.

Section 410 - Malt Liquors

410.01 Applicability of Section. No provision of this Section shall apply to malt liquors containing less than one-half of one percent (½ of 1%) of alcohol by volume.

410.02 License Required to Sell at Retail. It shall be unlawful to sell malt liquors at retail in the City, (either on-sale or off-sale) except when licensed as provided in this Section.

410.03 Classification of Licenses. There shall be three (3) types of licenses issued by the City for the sale of malt liquors, classified and defined as “on-sale”, “off-sale”, and “temporary on-sale” licenses.

410.04 Scope of Licenses; to Whom “On-Sale” License Issued.

Subd. 1 On-Sale. An “on-sale” license shall permit the licensee to sell malt liquors for consumption on the premises This class of license shall be granted only to restaurants, hotels, drugstores, bona fide clubs and establishments for the sale of malt beverages, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

Subd. 2 Off-Sale. An “off-sale” license shall permit the licensee to sell malt liquors in original packages for consumption off the premises only.

Subd. 3 Temporary “On-Sale” Licenses. Temporary “on-sale” licenses shall be granted only to bona fide clubs, charitable and other non-profit organizations for sale of malt liquors for consumption on the premises designated.

410.05 Application for License . Any person desiring a license required by this Section shall make a written application therefor to the Council and file the application in the office of the Clerk-Administrator. It shall be unlawful to make any false statement in an application. The application shall contain the following information:

- A. The name, age and place of residence of the applicant.
- B. The kind of business in which the applicant is engaged and the address of the business.
- C. A statement that the applicant is a citizen or legal alien of the United States and is of good moral character and repute.

410.06 Council to Consider Application. At the next meeting of the Council following receipt of an application for a license required by this Section, the Clerk-Administrator shall present the application to the Council for its consideration. The Council shall hear all persons interested in the granting of the license and consider the appropriateness of the location applied for in the application.

410.07 License Fees. At a time of filing an application for a license required by this Section, the applicant shall deposit with the Clerk-Administrator the fee set for the type of license being applied for as determined in the fee schedule adopted from time to time by the council.

410.08 Number of Malt Liquor Licenses Restricted. No more than six (6) “on-sale” licenses required by this Section and no more than six (6) “off-sale” licenses required by this Section shall be granted by the Council during any license year.

410.09 Premises Restrictions. No “on-sale” license shall be issued to permit the sale of malt liquor within two hundred (200) feet of church or school buildings, nor to any other location where a license would be prohibited by State law.

410.10 Ineligible Persons. No license required under this Section shall be issued to any person ineligible to hold such a license under State law.

410.11 Granting of License after Second Violation. No license required by this Section shall be granted for a period of one (1) year from the date of a second violation of this Section or of the provisions of any ordinance relating to the sale, possession, manufacture or transportation of alcoholic beverages.

410.12 Expiration Date of Licenses. All licenses granted and issued under the provisions of this Section shall be issued for one year, and shall expire on the last day of December; except that for the purpose of coordinating the time of expiration of licenses in general, licenses may be issued for a shorter time, in which case a pro rata license fee shall be charged.

410.13 Violation of State Law Grounds for License Revocation. Any person licensed pursuant to this Section, who has been found guilty of any violation of the State laws relative to the sale of malt liquor, shall have his or her license revoked by the Council.

410.14 Hours of Sale.

A. No sale of malt liquor shall be made between the hours of 1:00 a.m. and 8:00 a.m. on any weekday Monday through Saturday inclusive; nor shall any sale be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon.

B. Any violation of this Section shall be a misdemeanor and shall also be cause for the revocation or suspension of the license of the offender.

410.15 Sale to Person under Twenty-one (21) Years of Age. It shall be unlawful for any person to sell alcoholic beverages to any person under the age of twenty-one (21) years.

410.16 Sale at Amusement Places. Unless special permits are obtained therefor from the Clerk-Administrator, no malt liquor shall be sold, served or consumed at or in any theater, picture show, ball park, dance hall, or other place of public gathering for the purpose of entertainment or amusement.

410.17 Licensed Premises to Be Open for Inspection. Premises licensed in accordance with this Section shall be open to inspection by the Health and Sheriff Departments during business hours.

420.01 License Required.

Subd. 1 General Requirement. No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly, on any pretense or by any device, sell, barter, keep for sale or otherwise dispose of intoxicating liquor as part of any transaction in the City without a license to do so as provided in this Chapter.

Subd. 2 Classification. Licenses shall be of six (6) kinds: “On-sale License”, “Off-sale License”, “Combination License”, “Special Sunday License”, “Temporary On-Sale License”, and “On-sale Wine License”.

Subd. 3 On-sale Licenses. “On-sale” licenses shall be issued only to hotels, restaurants, clubs or congressionally chartered veterans organizations provided that the organization has been in existence for at least three (3) years and liquor sales shall only be to members and bona fide guests, and exclusive liquor stores, and shall permit of liquor only for consumption on the licensed premises.

Subd. 4 Off-sale Licenses. “Off-sale” licenses shall, with the approval of Commissioner of Public Safety, be issued only to exclusive liquor stores and shall permit the sale of liquor only for consumption off of the licensed premises.

Subd. 5 Combination Licenses. The City may issue an “off-sale” and “on-sale” intoxicating liquor licenses to the same licensee, or, in lieu of issuing an “on-sale” and “off-sale” license separately to licensee, may issue a “Combination On-sale and Off-sale” license.

Subd. 6 Special Sunday License. Special Sunday Licenses shall be issued only to an on-sale licensee to sell liquor by the glass for consumption on the licensed premises only on Sundays in conjunction with the serving of food by the licensee and to holders of a brewer taproom license.

(Am. Ord. 2014-3, passed 7-22-14)

Subd. 7 On-sale Wine License. “On-sale Wine” licenses shall, with the approval of the Commissioner of Public Safety, be issued only to restaurants meeting the qualification of Minn. Stat. § 340A.404, Subd 6 and shall permit the sale of wine not exceeding 14% alcohol volume, for the consumption with the sale of food. A wine license holder who also holds a malt liquor license and whose gross receipts are at least 60% attributable to the sale of food, may also sell strong beer.

(Am. Ord. 2004-3, passed 2-24-04)

Subd. 8 Temporary On-sale Licenses. “Temporary On-sale Licenses” may be issued to a club or charitable, religious or other non-profit organization in existence for at least three years for the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not

more than the maximum number of consecutive days, nor more than the aggregate total number of days, authorized by Minn. Stat. Chapter 340A. The license and may authorize on-sale on premises other than at premises the licensee owns or permanently occupies. The license may also provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor licensee issued by the City. The fee for a temporary on-sale license shall be in the amount set in the fee schedule adopted from time to time by the council. These temporary on-sale licenses shall not be valid unless first approved by the Commissioner of Public Safety and shall be subject to all laws, code provisions, and ordinances governing the sale of intoxicating liquor except Minn. Stat. § 340A.409 and those laws, code provisions and ordinances which by the nature are not applicable.

Subd. 9 Brewer and Brew Pub Off-Sale Malt Liquor License. This license may be issued only with the approval of the Commissioner of Public Safety for sale of 64-ounce containers (growlers) of malt liquor produced and packaged on the licensed premises in accordance with the requirements of Minn. Stat. § 340A.301, Subd. 7 (b).

(Am. Ord. 2014-3, passed 7-22-14)

Subd. 10 Brewer Taproom License. This license may be issued to the holder of a brewer's license under Minn. Stat. § 340A.301, Subd. 6(c), (i), or (j). A brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may only have one brewer taproom license and may not have an ownership interest in a brewery licensed under Minn. Stat. § 340A.301, Subd. 6(d). A brewer taproom license may not be issued to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license or exercising control over the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(Am. Ord. 2014-3, passed 7-22-14)

420.02 Application for Licenses.

Subd. 1 Form. Every application for a license to sell intoxicating liquor shall state the name of the applicant, his or her age, representations as to his or her character, with the references as the Council may require, his or her citizenship, the type of license applied for, the business in connection with which the proposed license shall operate at its location, whether the applicant is owner and operator of the business, how long he or she has been in that business at that place and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the Clerk-Administrator. No person shall make a false statement in an application.

Subd. 2 Liability Insurance. Prior to the issuance of a license under this Section, the applicant shall file with the Clerk-Administrator, a liability insurance policy or certificate that provides the following:

- A. A certificate that there shall be in effect an insurance policy or pool providing for the minimum coverages required by State law:
- B. A bond of a surety company with minimum coverages as provided in clause A, or
- C. A certificate of the State Treasurer that the licensee has deposited with the State Treasurer in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of at least the minimum requirements mentioned immediately below.

All licensees, including, but not limited to on-sale licensees, off-sale licensees, combination licensees, special Sunday licensees, temporary on-sale licensees, and on-sale wine licensees shall provide to the City a certificate that there is in effect for the license period an insurance policy issued by a liquor liability insurer providing at least \$100,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$100,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more

persons in any one occurrence. The Liquor Liability insurance mentioned immediately above shall not be required in those instances set forth in Minnesota Statutes § 340A.409, Subd. 4. In the case of temporary on-sale licenses, the licensee shall name the City as an additional insured on the Liquor Liability insurance policy required by this section.

Subd. 3 Approval of Security. The security offered under Subd. 2 shall be approved by the City Council and by the Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subd. 3 shall be cause for suspension or revocation of the license.

(Am. Ord. passed 3-27-01)

420.03 License Fees.

Subd. 1 Amount. The fee for each type of license required under this Section shall be as set in the fee schedule adopted from time to time by the Council.

Subd. 2 Payment. Except for temporary licenses, each application for a license shall be accompanied by a receipt from the Clerk-Administrator for payment of one-half ($\frac{1}{2}$) of the amount of the license fee. If the license is granted, the remaining one-half ($\frac{1}{2}$) of the fee shall be paid on July 1st following its issuance. The fee for temporary licenses shall be paid in full at the time the licensed is issued. All fees shall be paid into the general fund. If an application for a license is rejected, the Clerk-Administrator shall refund the amount paid.

Subd. 3 Pro Rata Fee. Each license shall be issued for a period of one (1) year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one (1) month. Every license shall expire on the last day of December.

Subd. 4 Refunds. No refund of any fee shall be made except as authorized by State Law.

420.04 Granting of Licenses.

Subd. 1 Investigation and Issuance. Each application, whether new or for renewal, shall be referred to the chief law enforcement officer for the City for investigation. Each individual or person who has or will have any beneficial interest in the license shall be so investigated. Said law enforcement officer shall make necessary inquiry and list all violations of Federal and State law or municipal ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. The Council may refer the application to the fire chief for the investigation of the premises to be licensed as he or she deems necessary or as the Council directs. The chief law enforcement officer, and the fire chief, if requested, shall report their findings and comments to the City Council who may then

conduct the additional investigation as they deem necessary. Upon receipt of the reports and upon completion of the additional investigations as shall be deemed necessary, the Council shall, in its discretion, grant or refuse the application.

Subd. 2 Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee shall be deemed a transfer of the license if such transfer changes the controlling interest of the company, or if more than ten percent (10%) is transferred to any one person. A transfer of stock without prior Council approval shall be grounds for revocation of the license.

420.05 Persons Ineligible for License. No license shall be granted to any person made ineligible for a license by State law.

420.06 Places Ineligible for License.

Subd. 1 General Prohibition. No license shall be issued for any place or any business ineligible for the license under State law.

Subd. 2 Premises Owned by Ineligible Persons. No license shall be issued for any premises owned by a person to whom a license may not be granted under this Section.

Subd. 3 Taxes and Assessments. No license shall be granted for operation on a premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

420.07 Condition of License.

Subd. 1 In General. Every license shall be subject to the conditions in the following subdivision and all other provisions of this Section and of any other applicable code provision, ordinance, State law or regulation.

Subd. 2 Licensee's Responsibility. Every licensee shall be responsible for the conduct of his or her place of business and the conditions of sobriety and order in it. The act of an employee on the licensed premises authorized to sell intoxicating liquor there shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Section and the law equally with the employee.

Subd. 3 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the Olmsted County Sheriff's Department or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging adults over the age of eighteen (18) but less than the age of twenty-one (21), to enter the licensed premises to attempt to purchase alcohol. Those

used for the purpose of compliance checks shall be supervised by Olmsted County Sheriff's Department or other designated City personnel. Those used for compliance checks shall not be guilty of unlawful possession of alcohol when such items are obtained as a part of the compliance check. Those used in compliance checks shall not attempt to use a false identification misrepresenting their age, and those lawfully engaged in a compliance check shall answer all questions about their age if asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes or required for the enforcement of a particular state or federal law.

Subd. 4 Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or federal gambling stamp.

Subd. 5 Training. All licensed owners/managers are required to annually attend a qualified and City of Stewartville accepted alcohol training/education class for the establishment. A certificate of completion shall be presented to the City of Stewartville upon completion of these classes by November 15th of each year. The training/education classes may be those classes prepared and presented by the State of Minnesota or classes approved, prepared and presented by the owner's liquor insurance company. Upon completion of these classes, the owners/managers must provide written documentation of attendance and certification of compliance. It is recommended that the owners/managers of the liquor establishment provide and have each server of alcohol, for its establishment, attend classes annually.

Subd. 6 Violations.

A. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

B. Hearings. If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be scheduled, the time and place of which shall be published and provided to the accused violator.

C. Hearing Officer. The City Council shall serve as the hearing officer.

D. Decision. If the hearing officer (the City Council) determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under the following section shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such finding shall be recorded and a copy provided to the acquitted violator.

E. Appeals. Appeals of any decision made by the hearing officer (the City Council) shall be filed in the District Court for the city in which the alleged violation occurred.

F. Misdemeanor prosecution. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this chapter.

G. Continued violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subd. 7 Penalty.

A. Licensees and employees. Any licensee, and any employee of an licensee, found to have violated this chapter shall be charged an administrative fine of seventy-five dollars (\$75) for a first violation of this chapter; two hundred dollars (\$200) for a second offense at the same licensed premises within a twenty-four (24)-month period; and two hundred fifty dollars (\$250) for a third or subsequent offense at the same location within a twenty-four (24)-month period. In addition, after the third offense, the license shall be suspended for not less than seven (7) days. The penalty shall be set each year as part of the City of Stewartville Fee Schedule.

B. Misdemeanor. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this chapter.

(Am. Ord. 2005-1, passed 2-22-05; Am. Ord. 2009-3, passed 2-24-09)

420.08 Restrictions on Purchase and Consumption.

Subd. 1 Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor “on-sale”.

Subd. 2 Hours of Operation - On-sale. No sale of intoxicating liquor for consumption on the licensed premises may be made:

- A. Between 1:00 a.m. and 8:00 a.m. on the days of Tuesday through Saturday;
- B. Between 12:00 midnight and 8:00 a.m. on Monday except as noted in Subd. 3.
- C. After 1:00 a.m. on Sundays, except as provided in Subd. 3;

Subd. 3 Sunday Sales. A holder of a Special Sunday License may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. Sunday and 1:00 a.m. Monday.

Subd. 4 Hours of Operation - Off-sale. No sale of intoxicating liquor may be made by an off-sale licensee:

1. On Sundays, except between the hours of 11:00 a.m. and 6 p.m.;
2. Before 8:00 a.m. on Monday through Saturday;
3. After 10:00 p.m. on Monday through Saturday;
4. On Thanksgiving Day;
5. On Christmas Day, December 25th; or
6. After 8:00 p.m. on Christmas Eve, December 24th.

Subd. 5 2:00 a.m. Last Call. A holder of a Special 2:00 a.m. Last Call License may sell intoxicating liquor for consumption on the premises until 2:00 a.m. with the bar closing at 2:30 a.m.

(Ord. 2003-17, passed 12-23-03; Am. Ord. 2017-2, passed 5-9-17)

420.09 Suspension and Revocation.

Subd. 1 General. The Council may either suspend, for a period not to exceed 60 days, or revoke any liquor license or impose a civil fine not to exceed \$2,000 upon a finding that the licensee has failed to comply with any applicable statute, regulation, code provision, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. §§ 14.57 to 14.70 of the Administrative Procedures Act.

Subd. 2 Lapse of Insurance. Lapse of required dram shop insurance or Bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this Section without further action of the City Council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of a deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received a notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if the request is made in writing to the Clerk-Administrator a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirements of this Section have again been met.

420.10 Limit on Issuance of Licenses.

Subd. 1 Maximum Number of Off-sale Licenses. Subject to meeting the conditions contained in this Section, off-sale licenses may be granted, as determined by the City Council, provided, however, that the total number of off-sale licenses shall not exceed one until the number of residents of the City exceed 5,500 or until December 31, 2003, whichever occurs first.

Subd. 2 Maximum Number of On-sale Licenses. Up to five on-sale intoxicating liquor licenses may be issued by the City; provided, however, that on-sale intoxicating liquor licenses may be issued to the following entities in addition to the five authorized by this Subsection:

- A. Clubs, or congressionally chartered veterans organizations.
- B. Restaurants that are issued licenses to sell wine.

420.11 Licensing of Bottle Clubs.

Subd. 1 Permit Required. No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of intoxicating liquor or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without having first obtained a permit from the Commissioner of Public Safety to the applicants as the Commissioner shall deem eligible.

Subd. 2 Only Authorized to Permit the Consumption and Display. A permit issued by the Commissioner authorizes the establishment to permit the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

Subd. 3 Permit Expiration. All permits issued under this provision shall expire June 30th of each year.

Subd. 4 Local Consent Required. A permit issued under this Section shall not be effective until approved by the City Council.

Subd. 5 Permit Fees. In addition to permit fees required by the Commissioner of Public Safety, the City shall hereby impose an additional fee as set in the fee schedule adopted from time to time by the council.

Subd. 6 Inspections. An establishment holding a permit under this Section shall be open for inspection by the Commissioner and the Commissioner's representatives and by peace

officers, who may enter and inspect during reasonable business hours. Intoxicating liquor sold, served or displayed in violation of law may be seized and disposed of as provided by law.

Subd. 7 Lockers. A club issued a permit under this Section may allow members to bring and keep a personal supply of intoxicating liquor in lockers on the club premises. All bottles kept on the premises shall have attached to it a label signed by the member. No person under 21 years of age may keep a supply of intoxicating liquor on club premises.

Subd. 8 One Day City Permits. The City may issue a one day permit for the consumption and display of intoxicating liquor under this Section to a non-profit organization in conjunction with a social activity in the City sponsored by that organization. The permit shall be approved by the Commissioner of Public Safety and shall be valid only for the day indicated on the permit. The fee for the permit shall be as set in the fee schedule adopted from time to time by the council. The City may not issue more than ten (10) permits under this Section in any one year.

Subd. 9 House of Consumption and Display. No establishment licensed under this provision shall permit a person to consume or display intoxicating liquor and no person shall consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Section 430 - General Provisions

430.01 Gambling Prohibited. No retail establishment licensed to sell alcoholic beverage may keep, possess, or operate, or permit the keeping, possession or operation on the licensed premises of dice or any gambling devices defined in Minn. Stat. § 349.30 or permit gambling on the licensed premises except as shall be provided in this Subsection.

Gambling equipment may be kept or operated, and raffles conducted, on licensed premises in adjoining rooms when the use of the gambling equipment is authorized under Minn. Stat. Chapter 349.

430.02 Racial Discrimination; Clubs. No retail license to sell alcoholic beverages may be issued or renewed by the City to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

430.03 License Limited to Space Specified. A retail license to sell any alcoholic beverage shall be only effective for the compact and contiguous space specified in the approved license application, except that the holder of an on-sale license may provide services at another location under a contract as authorized by Minn. Stat. § 340A.404, or as part of a convention, banquet, meeting, social event, or other activity held at a municipally owned facility as authorized by Minn. Stat. § 340A.404.

430.04 Persons Eligible for Licenses. No retail license shall be issued to:

- A. A person not a citizen of the United States or resident alien;
- B. A person under twenty-one (21) years of age;
- C. A person who within five years of the license application has been convicted of wilful violation of a Federal or State law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of intoxicating or malt liquors;
- D. A person who has had an intoxicating liquor or 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 (5%) 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, a partnership, association, enterprise, business or firm in which any such person is in any manner interest; or
- E. A person not of good moral character and repute.

430.05 Sales to Obviously Intoxicated Persons. No person may sell, give, furnish or in any way procure for another, alcoholic beverages for the use of an obviously intoxicated person.

430.06 Persons Under Twenty-one (21) Years of Age; Illegal Acts.

Subd. 1 Consumption. It shall be unlawful for any:

- A. Retail intoxicating liquor or malt liquor licensee or bottle club permit holder to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises; or
- B. A person under the age of 21 years to consume any alcoholic beverages unless in the household of the person's parent or guardian and with the consent of the parent or guardian.

Subd. 2 Purchasing. It shall be unlawful for any person;

- A. To sell, barter, furnish or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;
- B. Under the age of 21 years to purchase or attempt to purchase any alcoholic beverages; or

C. To induce a person under the age of 21 years to purchase or procure any alcoholic beverages.

Subd. 3 Possession. It shall be unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than the household of the parent or guardian shall be prima facie evidence of an intent to consume it at a place other than the household of the parent or guardian.

Subd. 4 Entering Licensed Premises.

A. It shall be unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage except as provided by State law.

Subd. 5 Misrepresentation of Age. It shall be unlawful for a person under the age of 21 years to claim to be 21 years old or order for the purpose of purchasing alcoholic beverages.

Subd. 6 Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or Minnesota identification card, or in the case of a foreign national, by a valid passport.

430.07 Provision of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales conditions of bonds and licensees, hours of sale and distribution of intoxicating liquor and malt liquor shall be adopted and made part of this Section as if set out in full.

430.08 License Posting. A retail license to sell alcoholic beverages shall be posted in a conspicuous place in the premises for which it shall be used.

430.09 Limitation of Issuance of Licenses.

A. No more than one off-sale intoxicating liquor license may be directly or indirectly issued to any one person or place in the City; and for the purpose of this subsection the term interest shall be as defined in Minn. Stat. § 340A.412, Subd. 3.

B. An off-sale intoxicating liquor license shall not be issued to a place where nonintoxicating malt liquor is sold for consumption on the premises. However, this subpart shall not apply to those places where both an on-sale and off-sale license or a combination license have been issued.

C. No license to sell intoxicating liquor shall be issued within 200 feet of a church or school building.

430.10 Refunds. A pro rata share of an annual license fee for a retail license to sell intoxicating or non-intoxicating malt liquor, either on-sale or off-sale, may be refunded to the licensee or the licensee's estate if (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; (3) the business ceases to be lawful for a reason other than a license revocation; or (4) the licensee ceases to carry on the licensed business under the license.

430.11 Tampering or Refilling Bottles.

Subd. 1 Refilling bottles. It shall be unlawful for a person to sell, offer for sale, or keep for sale alcoholic beverages in a package or bottle which has been refilled or partly refilled.

Subd. 2 Tampering. It shall be unlawful for a person holding a retail intoxicating liquor license or non-intoxicating liquor license, directly or indirectly, through an agent, employee or other person, to dilute or in any manner tamper with the contents of the original package or bottle so as to change its composition or alcoholic content while the contents are in the original package or bottle. Possession on the premises by a licensee of alcoholic beverages in the original package or bottle differing in composition or alcoholic content from when it was received from the manufacturer or wholesaler from whom it was purchased, is prima facie evidence that the contents of the original package or bottle has been diluted, changed, or tampered with in violation of this Section.

430.12 A Licensee May Not Sell for Resale. A retail licensee shall not sell alcoholic beverages to any person for the purpose of resale or to any person whom the licensee has reason to believe intends to resell the alcoholic beverage without written approval of the Commissioner of Public Safety.

430.13 Sale of Ethyl Alcohol and Neutral Spirits Prohibited. No person shall sell at retail for beverage purposes ethyl alcohol or neutral spirits, or substitutes thereof, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits. Nothing in this Section shall prohibit the manufacture or sale of other products obtained by use of ethyl alcohol or neutral spirits as defined in the United States Treasury Department, Bureau of Internal Revenue, Regulation No. 125, Article II, Standards of Identity for distilled spirits.

430.14 License Required. Except as shall be provided in this Chapter and Minn. Stat. Chapter 340A, no person may directly nor indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

430.15 Selling and Consuming Alcoholic Beverages on Streets and in Automobiles. No alcoholic beverages shall be sold or consumed on a public highway or thoroughfare or in an automobile in the City. Nothing in this Section shall be intended to limit the restrictions of Minn. Stat. § 169.122 (the open bottle law).

430.16 Nudity Prohibited. In order to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex, and to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault, and disorderly conduct, it shall be unlawful for any licensee to permit or allow any person from being upon a licensed premise when such person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It shall also be unlawful for any person to appear in a licensed establishment with such stated anatomical areas uncovered or covered only by a transparent material.

430.17 Penalties. Unless otherwise provided by State Law, any person violating any provision of this Section shall be guilty of a misdemeanor and upon conviction shall be punished as for a misdemeanor as that term is defined in Minn. Stat. § 609.01.

