

**CHAPTER 5**

**ALCOHOLIC BEVERAGES LICENSING AND REGULATION**

**SECTION 5.01. DEFINITIONS.**

**SECTION 5.02. APPLICATIONS AND LICENSES UNDER THIS CHAPTER –  
PROCEDURE AND ADMINISTRATION.**

**Application.**  
**False Statements.**  
**Application and Investigation Fees.**  
**Action.**  
**Duplicate Licenses.**  
**Posting.**  
**Resident Manager or Agent.**  
**Persons Disqualified.**

**SECTION 5.03. RENEWAL OF LICENSES.**

**SECTION 5.04. DELINQUENT TAXES AND CHARGES.**

**SECTION 5.05. CONDITIONAL LICENSES.**

**SECTION 5.06. PREMISES LICENSED.**

**SECTION 5.07. UNLAWFUL ACTS.**

**Consumption.**  
**Removal of Containers.**  
**Closing.**

**SECTION 5.08. CONDUCT ON LICENSED PREMISES.**

**SECTION 5.09. SALE BY EMPLOYEE.**

**SECTION 5.10. LICENSE CONDITION AND UNLAWFUL ACT.**

**Inspection by Police Officer.**

**SECTION 5.11. MINORS AS DEFINED IN SECTION 5.01 – UNLAWFUL ACTS.**

**Consumption.**  
**Purchasing.**  
**Possession.**  
**Entering Licensed Premises.**  
**Misrepresentation of Age.**  
**Proof of Age.**

**SECTION 5.12 LICENSE FEES – FIXING, INCREASES, NOTICE AND HEARING.**

**SECTION 5.13. FINANCIAL RESPONSIBILITY OF LICENSEES.**

**Proof.**

**Exception.**

**Documents Submitted to Commissioner.**

**SECTION 5.14. INSURANCE CERTIFICATE REQUIREMENTS.**

**SECTION 5.15. ALCOHOLIC BEVERAGES – CERTAIN UNLAWFUL ACTS.**

**Illegal Sale or Purchase.**

**Intoxicated Person.**

**Proof of Age.**

**Sell During Hours, Days Not Permitted.**

**Consume During Hours, Days Not Permitted.**

**Purchase During Hours, Days Not Permitted.**

**SECTION 5.16. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY AND PRIVATE PROPERTY TO WHICH THE PUBLIC HAS ACCESS.**

**SECTION 5.17. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.**

**SECTIONS 5.18. SOCIAL HOST**

**Purpose and Finding**

**Authority**

**Definitions**

**Prohibited Acts**

**Exceptions**

**Enforcement**

**Severability**

**Penalty**

**SECTION 5.19 THROUGH 5.29., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.**

**SECTION 5.30. BEER LICENSE REQUIRED.**

**SECTION 5.31. TEMPORARY BEER LICENSE.**

**Applicant.**

**Conditions.**

**SECTION 5.32. BEER LICENSE RESTRICTIONS AND REGULATIONS.**

**Gambling Licensed by the Charitable Gambling Control Board.**

**Federal Retail Liquor Dealer's Tax Stamp and City Liquor License.**

**Wholesaler or Financial Interest.**

**Servers under Age 19.  
Distance from Schools and Churches.  
Subject to City Code.**

**SECTION 5.33. HOURS AND DAYS OF BEER SALES.**

**SECTIONS 5.34. THROUGH 5.39., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.**

**SECTION 5.40. LIQUOR LICENSE REQUIRED.**

**SECTION 5.41. HOURS AND DAYS OF LIQUOR SALES.**

**SECTION 5.42. TEMPORARY LIQUOR LICENSE.**

**License Authorized.  
Applicant.  
Terms and Conditions of License.  
Insurance Required.**

**SECTION 5.43. SPORTS, CONVENTION OR CULTURAL FACILITIES LICENSE.**

**SECTIONS 5.44. THROUGH 5.49., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.**

**SECTION 5.50. ON-SALE WINE LICENSE REQUIRED.**

**SECTION 5.51. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.**

**SECTION 5.52. THROUGH 5.59., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.**

**SECTION 5.60. LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS AND REGULATIONS.**

**Licenses to Connection with Premises of Another.  
Employment of Minors.  
Restaurants.  
Distance from Schools and Churches.**

**SECTION 5.61. CLUB LICENSE RESTRICTIONS AND REGULATION AND UNLAWFUL ACTS.**

**Definitions.  
Premises Qualified.  
Daily Register.  
Unlawful Acts.**

**SECTION 5.62. THROUGH 5.98., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.**

**SECTION 5.99. VIOLATION A MISDEMEANOR.**

## CHAPTER 5

### ALCOHOLIC BEVERAGES LICENSING AND REGULATION

#### SECTION 5.01. DEFINITIONS.

As used in this Chapter, unless otherwise stated in specific sections, the following words and terms shall have the meanings stated:

1. "Alcoholic beverage" means any beverage containing more than one-half of one percent alcohol by volume.
2. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as a request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
3. "Applicant" means any person making an application for a license under this Chapter.
4. "Beer" means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called "malt coolers" with the alcoholic content limits stated herein.)
5. "Brewer" – A person who manufactures beer for sale.
6. "Club" – An incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvements or for the promotion of sports, or a congressionally chartered veterans' organization which : (1) has more than fifty members; (2) 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; (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for the 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.
7. "Commissioner" – The Minnesota Commissioner of Public Safety.
8. "License" means a document, issued by the City, to an applicant permitting the applicant to carry on and transact the business stated therein.
9. "Licensee" means an applicant who, pursuant to the approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the City for carrying on the business stated therein.

10. "License fee" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

11. "Licensed Premises" – The premises described in the issued license.

12. "Liquor" – Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)

13. "Malt Liquor" – Any beer, ale or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

14. "Manufacturer" means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

15. "Minor" means any natural person who has not attained the age of 21 years.

16. "Off-sale" means the retail sale of beer in original packages for consumption off or away from the premises where sold.

17. "On-sale" means the retail sale of beer, by the glass or by the drink, for consumption on the premises where sold only.

18. "Package" and "Original package" mean any container or receptacle holding alcoholic beverage, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

19. "Restaurant" – 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 seating capacity of at least twenty-five guests.

20. "Sale", "Sell" and "Sold" mean all barters and all manners or means of furnishing beer to persons, including such furnishing in violation or evasion of law.

21. "Wholesaler" means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

**SECTION. 5.02. APPLICATIONS AND LICENSES UNDER THIS CHAPTER -  
PROCEDURE AND ADMINISTRATION.**

Subdivision 1. Application.

All applications shall be made at the office of the Administrator upon forms prescribed by the City, or if by the Commissioner, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant. Every application for the issuance or renewal of a liquor or beer license must include a copy of each summons received by the applicant during the preceding year under Minnesota Statutes, Section 340A.802.

Subdivision 2. False Statements.

It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part thereof.

Subdivision 3. Application and Investigation Fees.

At the time of the initial application, an applicant shall pay to the City an application and investigation fee, not refundable to applicant, in the amount of \$50.00 to cover the costs of the City in processing the application and the investigation thereof. No such fee shall be required of an applicant for a temporary beer license.

Subdivision 4. Action.

A. Granting. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter. Prior to consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before consideration of the issuance by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

B. Issuing. If an application is approved, the Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the City or the Commissioner, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

C. License Refundment in Certain Cases. In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee shall cease by reason of illness or death of the licensee, or if it shall become unlawful for the licensee to carry on the licensed business under the license, except when such license is revoked, the City shall, upon the happening of any such event, refund to the licensee, or to the licensee's estate, such part of the license fee paid by the licensee as corresponds to the time such license had yet to run. In the event of death of the licensee, his personal representative is hereby authorized to continue operation of said business for not more than ninety days after the death of such licensee.

D. Transfer. A license shall be non-transferable. No license shall be transferable to a different location. It is unlawful to make any transfer in violation of this Subparagraph.

E. Refusal and Termination. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

F. Revocation or Suspension. The Council shall revoke or suspend, for a period not to exceed sixty days, a license granted under the provisions of this Chapter, or impose a civil fine not to exceed \$2,000.00, for each violation on a finding that the licensee has failed to comply with a state statute, regulation or provision of the City Code relating to alcoholic beverages. The Council may revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or shall revoke if such revocation is mandatory by Statute. If it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than fifteen nor more than thirty days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for



revocation or suspension stated in the City Code or Statute, the following shall also be grounds for such action:

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

G. Public Interest. No license under this Chapter may be issued, transferred, or renewed if the results of any investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest.

H. Corporate Applicants and Licensees. A corporate applicant at the time of application shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Clerk in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee which results in the change of voting control of the corporation by the persons owning the shares therein shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

Subdivision 5.            Duplicate Licenses.

Duplicates of all original licenses under this Chapter may be issued by the City Clerk without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subdivision 6.            Posting.

All licensees shall conspicuously post their licenses in their places of business.

Subdivision 7.            Resident Manager or Agent.

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

Subdivision 8.            Persons Disqualified.

A.     No license under this Chapter may be issued or renewed to:

- (1) A person who within five (5) years of the license application has been convicted of any felony or a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages;
- (2) A person who has had an alcoholic beverage license revoked within five (5) 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 corporate licensee, as a partner or otherwise in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- (3) A person under the age of twenty-one (21) years;
- (4) (4) a person not of good moral character and repute; or
- (5) (5) a person not a citizen of the United States or a resident alien.

B. No person holding a license from the Commissioner as a manufacturer, brewer (except as provided by statute), wholesaler or importer, may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the City.

**SECTION. 5.03. RENEWAL OF LICENSES.**

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

**SECTION. 5.04. DELINQUENT TAXES AND CHARGES.**

No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the City, are owed and are delinquent and unpaid.

**SECTION. 5.05. CONDITIONAL LICENSES.**

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefore, place such special conditions and restrictions, in addition to those stated in this Chapter, upon any license as it, in its discretion, may deem reasonable and justified.

**SECTION. 5.06. PREMISES LICENSED.**

Unless expressly stated therein, a license issued under the provisions of this Chapter shall be valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building or structure.

**SECTION 5.07. UNLAWFUL ACTS.**

Subdivision 1. Consumption.

It is unlawful for any person to consume, or any licensee to permit consumption of, beer, wine, or liquor on licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.

Subdivision 2.            Removal of Containers.

It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing beer, wine, or liquor, in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than twenty (20) minutes after the hour when a sale thereof can legally be made.

Subdivision 3.            Closing.

It is unlawful for any person, other than an on-sale licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales. Provided, however, that this Subdivision shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than alcoholic beverages.

**SECTION. 5.08.        CONDUCT ON LICENSED PREMISES.**

Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

**SECTION. 5.09.        SALE BY EMPLOYEE.**

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

**SECTION. 5.10.        LICENSE CONDITION AND UNLAWFUL ACT.**

Subdivision 1.            Inspection by Police Officer.

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

**SECTION. 5.11. MINORS AS DEFINED IN SECTION 5.01 - UNLAWFUL ACTS.**

**Subdivision 1. Consumption.**

It is unlawful for any:

- A. Licensee to permit any minor to consume alcoholic beverages on licensed premises.
- B. Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of such parent or guardian.

**Subdivision 2. Purchasing.**

It is unlawful for any:

- A. Person to sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.
- B. Minor to purchase or attempt to purchase any alcoholic beverage.
- C. Person to induce a minor to purchase or procure any alcoholic beverage.

**Subdivision 3. Possession.**

It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his parent or guardian.

**Subdivision 4. Entering Licensed Premises.**

It is unlawful for any minor, as defined in this Chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage.

- A. It is not unlawful for any person who has attained the age of eighteen years to enter licensed premises for the following purposes:
  - (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute;
  - (2) to consume meals; and

(3) to attend social functions that are held in a portion of the establishment where liquor is not sold.

B. It is unlawful for a licensee to permit a person under the age of eighteen years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

Subdivision 5.            Misrepresentation of Age.

It is unlawful for a minor to misrepresent his or her age for the purpose of purchasing an alcoholic beverage.

Subdivision 6.            Proof of Age.

Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid drivers license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national, from a nation other than Canada, by a valid passport.

**SECTION. 5.12.        LICENSE FEES – FIXING, INCREASES, NOTICE AND HEARING.**

Except as otherwise specifically provided, all fees for licenses provided for in this Chapter, including, but not by way of limitation, license fees, investigation and administration fees, limitation license fees, investigation and administration fees shall be fixed and determined by the Council, adopted by resolution and uniformly enforced. Such fees may from time-to-time be amended by the Council by resolution. Provided however, that before any such liquor license fee shall be increased, a 30-day notice shall be mailed to all affected licensees and a hearing held thereon. A copy of the resolution shall be kept on file in the office of the City Clerk and open to inspection during regular business hours. For the purpose of fixing such fees the Council may categorize and classify fees provided that such categorization and classification shall be included in the resolution authorized by this Section.

**SECTION. 5.13. FINANCIAL RESPONSIBILITY OF LICENSEES.**

**Subdivision 1. Proof.**

No beer, wine, or liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by Statute, by filing with the City:

A. A certificate that there is in effect an insurance policy or pool providing minimum coverage's of

(1) \$50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one occurrence, and

(2) \$50,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000.00 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of \$300,000.00 may be included in the insurance coverage; or,

B. A bond of a surety company with minimum coverage's as provided in Subparagraph A of this Subdivision; or,

C. A certificate of the State Treasurer that the licensee has deposited to the State Treasurer \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00.

**Subdivision 2. Exception.**

This Section does not apply to on-sale beer licensees with sales of beer of less than \$25,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$50,000.00 for the preceding years, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$25,000.00 for the preceding year, if the licensee complies with the following alternatives:

**Subdivision 3. Documents Submitted to Commissioner.**

All proofs of financial responsibility and exemption affidavits filed with the City under this Section shall be submitted by the City to the Minnesota Commissioner of Public Safety.

**SECTION. 5.14. INSURANCE CERTIFICATE REQUIREMENTS.**

Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Administrator a certificate of insurance showing

- (1) that the limits are at least as high as required,
- (2) that coverage is effective for at least the license term approved, and
- (3) that such insurance will not be canceled or terminated without thirty days' written notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

**SECTION. 5.15. ALCOHOLIC BEVERAGES - CERTAIN UNLAWFUL ACTS.**

It is unlawful for any:

Subdivision 1. Illegal Sale or Purchase.

Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.

Subdivision 2. Intoxicated Person.

Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.

Subdivision 3. Proof of age.

Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

Subdivision 4. Sell During Hours, Days not Permitted.

Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

Subdivision 5. Consume During Hours, Days not Permitted.

Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.



Subdivision 6. Purchase During Hours, Days not Permitted.

Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

**SECTION. 5.16. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY AND PRIVATE PROPERTY TO WHICH THE PUBLIC HAS ACCESS.**

It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage as that term is defined in this Chapter, on any:

- (1) City park (unless by special permit from City Council),
- (2) street,
- (3) other public property, or
- (4) private parking lot to which the public has access, except on such property when and where permission has been specifically granted or licensed by the Council.
- (5) City of Westbrook camp ground (unless registered for use of campsite).
- (6) Community Center/Senior Center as defined in the signed rental agreement.

All possession of alcohol on all city property needs to be approved by city council. Only cans and plastic bottles shall be allowed within the city park.

Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

**SECTION 5.17. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.**

It is unlawful for any person to introduce upon, or have in possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, as that term is defined in the this Chapter, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.

**SECTION 5.18. SOCIAL HOST.**

Subdivision. 1            Purpose and Findings.

The Westbrook City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who hosts events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Westbrook City Council finds that:

- a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- c) Alcohol which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subdivision 2.            Authority.

This ordinance is enacted pursuant to Minn. Stat. Sec. 145A.05, Subd. 1.

Subdivision 3.            Definitions.

For purposes of this ordinance, the following terms have the following meanings.

- a) Alcohol. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whisky, rum brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- b) Alcoholic beverage. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which if fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- c) Event or gathering. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- d) Host. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
- e) Parent. “Parent” means any person having legal custody of a juvenile:
  - (1) As natural, adoptive parent, or step-parent;
  - (2) As a legal guardian; or
  - (3) As a person to whom legal custody has been given by order of the Court.
- f) Person. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- g) Residence or Premises. “Residence “or “premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- h) Underage Person. “Underage person” is any individual under twenty-one (21) years of age.

Subdivision 4.            Prohibited Acts.

- a) It is unlawful for any person(s) to:
  - (1) host or allow an event or gathering;
  - (2) at any residence, premises, or on any other private or public property;
  - (3) where alcohol or alcoholic beverages are present;
  - (4) when the person knows or reasonably should know that an underage person will or does;
    - (i) consume any alcohol or alcoholic beverage;
    - or
    - (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and
  - (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- b) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subdivision 5.            Exceptions.

- a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- b) This ordinance does not apply to legally protected religious observances.
- c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. Sec. 340A.503, Subd. 1(a) (1).
- d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Subdivision 6.            Enforcement.

This ordinance can be enforced by any police officer or sheriff's deputy in the county.

Subdivision 7.            Severability.

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

Subdivision 8.            Penalty.

Violation of Subdivision 4 is a misdemeanor.

**(Sections 5.19 through 5.29, inclusive, reserved for future expansion.)**

**SECTION. 5.30.        BEER LICENSE REQUIRED.**

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefore from the City. This Section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding a beer license from the City. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license.

**SECTION. 5.31.        TEMPORARY BEER LICENSE.**

Subdivision 1.            Applicant.

A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota, and having its registered office and principal place of activity within the City, shall qualify for a temporary on-sale beer license.

Subdivision 2.            Conditions.

- A.     An application for a temporary license shall state the exact dates and place of proposed temporary sale.
- B.     No applicant shall qualify for a temporary license for more than a total of seven (7) days in any calendar year.

- B. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed is owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) \$50,000.00 for bodily injury to any one person in the amount of \$100,000.00 for bodily injury to two or more persons in any one occurrence and in the amount of \$10,000.00 for injury to or destruction of property of others in any one occurrence and (2) \$50,000.00 for loss of means of support of any one person in any one occurrence and subject to the limit for one person \$100,000.00 for loss of means of support of two or more persons in any one occurrence and subject to the limit for one person.

**SECTION. 5.32. BEER LICENSE RESTRICTIONS AND REGULATIONS.**

Subdivision 1. Gambling Licensed by the Charitable Gambling Control Board.

No gambling or gambling device shall be permitted on any licensed premises unless it is licensed by the Charitable Gambling Control Board.

Subdivision 2. Federal Retail Liquor Dealer's Tax Stamp and City Liquor License.

No licensee shall, during the effective period of such license, be the owner or holder of a Federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, unless such owner or holder also holds a liquor license from the City, and ownership or holding thereof shall be grounds for immediate revocation, without a hearing.

Subdivision 3. Wholesaler or Financial Interest.

No license shall be granted to a wholesaler or manufacturer of beer or to anyone holding a financial interest in such manufacture or wholesaling.

Subdivision 4. Servers Under age 19.

No person who has not attained the age of nineteen (19) years shall be employed to sell or serve beer in any on-sale establishment.

Subdivision 5. Distance from School and Churches.

Except as otherwise provided in this Chapter, no license shall be granted for any building within 300 feet of any public elementary or secondary school structure, or within 100 feet of any church structure.

Subdivision 6.            Subject to City Code.

Every license shall be granted subject to the provisions of this Chapter and all other applicable provisions of the City Code and other laws relating to the operation of licensee's business.

**SECTION. 5.33.        HOURS AND DAYS OF BEER SALES.**

No sale of beer shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday, inclusive. Neither shall any beer sale be made on any Sunday unless proper Sunday Intoxicating License is granted.

**SECTIONS 5.34 THROUGH 5.39., RESERVED FOR FUTURE EXPANSION.**

**SECTION 5.40.        LIQUOR LICENSE REQUIRED.**

It is unlawful for any person directly or indirectly on any pretense or by any device to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction without a license therefore from the City.

This Section shall not apply:

- (1) to such potable liquors as are intended for therapeutic purposed and not as a beverage.
- (2) to industrial alcohol and its compounds not prepared or used for beverage purposed.
- (3) to wine in the possession of person duly licensed under this Chapter as an on-sale wine licensee.
- (4) to sales by manufacturers to wholesalers duly licenses as such by the commissioner.
- (5) to sales by wholesalers to persons holding liquor licenses from the City or
- (6) to the municipal liquor store.

The voters of the city have authorized such issuance at a special election called for that purpose, the City may issue on-sale liquor licenses to (1) hotels, (2) restaurants; (3) bowling centers, and (4) clubs or congressionally chartered veterans organizations, provided that the organization has been in existence for at least three years and liquor sales will be made only to members and bona fide guests.

## **SECTION 5.41 HOURS AND DAYS OF LIQUOR SALES**

No sale of liquor shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday, inclusive. Neither shall any liquor sale be made on any Sunday unless proper Sunday Intoxicating License is granted.

## **SECTION 5.42 TEMPORARY LIQUOR LICENSE.**

### Subdivision 1.      License Authorized:

Notwithstanding any provision of the City Code to the contrary, the council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. Such license may provide that the licensee may contract with the holder of a full-year on sale license issued by the city for liquor catering services.

### Subdivision 2.      Applicant:

The applicant for a license under this Section must be a club or charitable, religious, or other non-profit organization in existence for at least three years.

### Subdivision 3.      Terms and Conditions of License:

- A. No License is valid until approved by the Commissioner
- B. No License shall be issued for more than three consecutive days
- C. No license shall issue until the city is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this Chapter, and that such coverage is in force on the premises where liquor is to be served.
- D. All licensees and licensees are subject to all provisions of statutes and the City Code relating to liquor sale and licensing. The licensee shall provide proof of financial responsibility coverage and in the case of catering by a full-year on-sale licensee; such caterer shall provide proof of the extension of such coverage to the licensed premises.
- E. Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.
- F. No more than, four three-day or six two-day licenses in any combination not to exceed 12 days per year may be issued to any one organization or registered political committee, or for any one location within a 12-month period.
- G. No more than one temporary license may be issued to any one organization or registered political committee or for any one location within any 30-day period.



Subdivision 4.            Insurance Required:

The Council may but at no time shall it be under any obligation whatsoever to grant a temporary liquor license on premises owned or controlled by the City. Any such license may be conditioned, qualified or restricted as the council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the city, prior to issuance of the license a certificate that there is in effect an insurance policy or pool providing minimum coverage of (1) \$50,000.00 because of bodily injury to any one person in the amount of \$100,000.00 because of bodily injury to two or more persons in any one occurrence and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one occurrence and subject to the limit for one person \$100,000.00 for loss of means of support of two or more persons in any one occurrence.

**SECTION. 5.43.        SPORTS, CONVENTION OR CULTURAL FACILITIES LICENSE.**

The Council may authorize any holder of an on-sale liquor license issued by the City to sell 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. The licensee must be engaged to sell liquor at such an event by the person or organization permitted to use the premises, and may sell liquor only to person attending the event. The licensee shall not sell liquor to any person attending or participating in any amateur athletic event. Such sales may be limited to designated areas of the facility. All such sales shall be subject to all laws relating thereto. The licensee shall provide proof of the extension of financial responsibility coverage to the premises on which such sales are to be made.

**SECTION 5.50.        ON-SALE WINE LICENSE REQUIRED.**

It is unlawful for any person directly or indirectly on any pretense or by any device to sell, barter keep for sale, or otherwise dispose of wine on-sale as part of a commercial transaction without a license therefore from the City.

This Section shall not apply to:

- (1) sales by manufacturers to wholesalers duly licensed as such by the Commissioner.
- (2) sales by wholesalers to persons holding on sale or off-sale liquor licenses from the city.
- (3) sales by wholesalers to persons holding on-sale wine licenses from the city or
- (4) sales by on-sale liquor licensees on days and during hours when on sale liquor sales are permitted.

**SECTION 5.51. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.**

No sale of wine shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday inclusive. Neither shall any wine sale be made on any Sunday unless proper Sunday Intoxicating License is granted.

**SECTION 5.60. LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS AND REGULATIONS:**

Subdivision 1. Licenses in Connection with Premises of Another.

A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Subdivision does not prevent the granting of a license to a proper lessee even if the person has leased the premises of a minor, a non-citizen, who is not a resident alien or a person who has been convicted of a crime other than a violation of this Chapter.

Subdivision 2. Employment of Minors.

No person under eighteen (18) years of age may be employed in a place where liquor is sold for consumption on the premises, except persons under eighteen (18) years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell liquor and may be employed as waiters or waitresses at a restaurant or hotel where only wine is sold, provided that the person under the age of eighteen may not serve or sell any wine.

Subdivision 3. Restaurants.

On-sale wine licenses shall be granted only to restaurants as defined in this Chapter. Provided, however, for purposes of this Subdivision, such restaurant shall have appropriate facilities for seating not less than twenty-five guests at one time. Notwithstanding the provisions of this Subdivision an on-sale wine license may be issued, with the approval of the Commissioner, to a license bed and breakfast facility authorizing the licensee to furnish wine only to registered guests of the facility.

Subdivision 4. Distance from Schools and Churches.

No license shall be granted for any building within 300 feet of any public elementary or secondary school structure or within 100 feet of any church structure.

**SECTIONS 5.61 CLUB LICENSE RESTRICTIONS AND REGULATIONS AND UNLAWFUL ACTS.**

Subdivision 1. Definitions.

The following terms, as used in this Section, shall have the meanings stated:

- A. “Member” means any person in good standing according to rules and regulations of the license club where ever located, having evidence of current membership upon his person.
- B. “Guest” means a person not a member of the club but present on the club license premises in the company of a host member.
- C. “Host member” means a member who is entertaining a guest who is in the member’s company at all times such guest is on the licensed premises.

Subdivision 2. Premises Qualified.

No club shall qualify unless it owns or leases a minimum usable floor area of 1200 square feet for club activities. Such premises shall meet all requirements of the State Building and Fire Codes and City Code provisions relating to zoning.

Subdivision 3. Daily Register.

In addition to all other general provisions, restrictions and regulations set forth in this Chapter, relating to beer or liquor licensees, as the case may be all club licensees shall keep a daily register showing the names of guests present and the name of the host member. Such register shall be open to inspection by police officers at all times.

Subdivision 4. Unlawful Acts.

The following are in addition to all other unlawful acts set forth in this Chapter relating to sales and purchases of beer or liquor, as the case may be:

- A. It is unlawful for a club licensee to sell liquor or beer to any person not a member or a guest of a member, of the licensed club.
- B. It is unlawful for any club licensee to serve beer or liquor to any non-member of the licensed club unless such non-member is a guest.
- C. It is unlawful for any person who is not a member, or a guest of a member, of the licensed club to purchase liquor or beer from the club.
- D. It is unlawful for any club licensee to hinder or prevent a police officer from determining compliance with this section and chapter and all other laws.

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

**SECTIONS 5.62 THROUGH 5.98, INCLUSIVE, reserved for future expansion.**

**SECTION. 5.99. VIOLATION A MISDEMEANOR.**

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