

CHAPTER XII

ALCOHOLIC BEVERAGES

SECTION 1200 - LIQUOR AND BEER

1200.01. Definitions. Subdivision 1. The terms defined in this subsection have the meanings given them.

Subd. 2. "Alcoholic beverage" means a beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine, and liquor.

Subd. 3. "Applicant" means a person making an application for a license.

Subd. 4. "Application" means a form furnished by the city and required as a prerequisite to the consideration of the issuance of a license for a business.

Subd. 5. "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: the term includes so-called "malt coolers."

Subd. 6. "Brewer" means a person who manufactures beer for sale.

Subd. 7. "Club" means an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which: (i) has more than 50 members; (ii) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; (iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. A member, officer, agent, or employee of a club may not 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 of the club. The club or congressionally chartered veterans' organization must have been in existence for at least three years.

Subd. 8. "Commissioner" means the Minnesota commissioner of public safety.

Subd. 9. "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has: (i) a resident proprietor or manager; (ii) a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and (iii) at least ten guest rooms.

Subd. 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.

Subd. 11. "Licensed premise" means the compact and contiguous premises described in the issued license. In the case of a restaurant, club, or exclusive liquor store licensed for the on-sale

of alcoholic beverages and located on a golf course, "licensed premise" means the entire golf course except for areas where motor vehicles are regularly parked or operated. (Amended, Ord. No. 70, Third Series)

Subd. 12. "Liquor" means ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

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

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

Subd. 15. "Minor" means a person who has not attained the age of 21 years.

Subd. 16. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subd. 17. "On-sale" means the sale of alcoholic beverages for consumption on the licensed premises only.

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

Subd. 19. "Restaurant" means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for at least 25 guests.

Subd. 20. "Sale", "sell" and "sold" mean all barter and all manners of means of furnishing alcoholic beverages to persons for a consideration, including such furnishing in violation or evasion of law.

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

Subd. 22. "Wine" means a beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits, or honey, and also carbonated wine, wine made from condensed grape mush, wine made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than one-half of one percent nor more than 14 percent alcohol by volume.

Subd. 23. "Responsible seller/server training course" means a course dealing with Minnesota laws regarding the sale and service of liquor or wine; said course must include an examination that demonstrates that the student has successfully learned basic facts and information

relating to the safe and legal sale and service of liquor or wine. (Added, Ord. No. 67, Third Series)

Subd. 24. “Training verification fee” means that money paid to the City prior to the issuance of and in connection with an application for a liquor or wine license for the sale or service of liquor or wine. (Added, Ord. No. 67, Third Series)

1200.03. Licenses - procedures and administration. Subdivision 1. Application. An application must be made at the office of the city administrator upon forms prescribed by the city, or if by the commissioner, then together with such additional information as the council may desire. Every application for the issuance or renewal of a liquor or wine license must include a Training Verification Form signed by the licensee/applicant verifying that all persons selling or serving liquor or wine upon the licensed premises have successfully completed a responsible seller/server training course within the preceding twelve months. Information required may vary with the type of business organization making application. Questions asked or information required by the application forms must be answered fully and completely by the applicant. (Amended, Ord. No. 67, Third Series)

Subd. 2. False statements. It is unlawful to intentionally make a false statement or omission upon an application form. A false statement in an application, or any willful omission to state any information called for on such application form is grounds for denial of the license or its revocation.

Subd. 3. Granting. The council may approve an application for the period of the remainder of the then current license year or for the entire ensuing license year. Prior to consideration of any application for a license, the applicant must pay the required license fee. Upon rejection of an application for a license, or upon withdrawal of an application before approval of the issuance by the council, the license fee will be refunded to the applicant. Failure to pay any portion of a fee when due is cause for revocation.

Subd. 4. Issuing. If an application is approved, the city administrator must forthwith issue a license pursuant thereto in the form prescribed by the city or the commissioner, as the case may be. Licenses are on a calendar year basis. For licenses issued and which are to become effective other than on the first day of the license year, the fee to be paid with the application is a pro rata share or the annual license fee. Licenses are valid only at one location and on the premises therein described.

1200.05. Transfer. A license is not transferable between persons or to a different location. A change in individual ownership, incorporation, or substitution of partners is a transfer. It is unlawful to make any transfer in violation of this subsection.

1200.07. Refusal and termination. The council may refuse to grant an application. A license will not be granted to a person of questionable moral character or business reputation. Licenses terminate only by expiration or revocation.

1200.09. Revocation or suspension. The council may revoke, or suspend, for a period not to exceed 60 days, a license or impose a civil fine not to exceed \$2,000 for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the city code relating to alcoholic beverages. The council must 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, if such revocation is mandatory by law. If it appears at the hearing thereon that a violation was not willful, the council may order suspension; provided that revocation must be ordered upon the third such violation or offense. A suspension or revocation does not 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. The hearing is called by the council upon written notice to the licensee served in person or by certified mail not less than 15 nor more than 30 days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this section, and in addition to grounds for revocation or suspension stated in the this code or law, the following are also grounds for the action: (i) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (ii) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the name to police; (iii) that the licensee failed or refused to cooperate fully with police in investigating the alleged illegal acts upon licensed premises; or, (iv) that the activities of the licensee created a serious danger to public health, safety, or welfare.

1200.11. Duplicate licenses. Duplicates of original licenses may be issued by the city administrator without action by the council, upon licensee's affidavit that the original has been lost, and upon payment of the fee adopted by resolution of the council for issuance of the duplicate. Duplicate licenses must be clearly marked DUPLICATE.

1200.13. Posting. Licenses must be conspicuously posted in the licensed places of business.

1200.15. Persons disqualified. Subdivision 1. A license may not be issued, or renewed, to: (i) a person who within five years of the license application has been convicted of 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; (ii) a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporate license, 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; (iii) a person under the age of twenty-one years; or, (iv) a person not of good moral character and repute.

Subd. 2. Wholesale license. A person holding a license from the commissioner as a manufacturer, brewer or wholesaler may not have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the city.

1200.17. Renewal license applications. Applications for renewal of licenses are made at least 60 days prior to the date of expiration of the license, and must contain such information as is required by the city. This time requirement may be waived by the council for good and sufficient cause.

1200.19. Delinquent taxes and charges. A license may not 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.

1200.21. Conditional licenses. The council may, upon a finding of the necessity therefor, place such special conditions and restrictions, in addition to those stated in this section, upon any licensee as it deems reasonable and justified.

1200.23. Premises licensed. Unless expressly otherwise stated in the license, a license is valid only in the compact and contiguous building or structure situated on the premises described in the license. All transactions relating to a sale under such license must take place within such building or structure, unless the licensee has been issued an outdoor alcohol service and consumption endorsement from the city. (Amended, Ord. No. 70, Third Series)

1200.25. Unlawful acts. Subdivision 1. Consumption. It is unlawful to consume, or any licensee to permit consumption of, alcoholic beverages on licensed premises more than 30 minutes after the hour when a sale thereof can legally be made.

Subd. 2. Closing. It is unlawful for a person, other than a licensee's bona fide employee actually engaged in the performance of duties, to be on premises licensed under this subsection more than 30 minutes after the legal time for making licensed sales, unless the licensed establishment is open to the public for serving food.

1200.27. Conduct on licensed premises. A licensee is responsible for the conduct of the licensed place of business and must maintain conditions of sobriety and order therein.

1200.29. Sale by employee. A sale of an alcoholic beverage in or from a licensed premises 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 for all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

1200.31. License condition and unlawful act. Subdivision 1. The premises licensed must at all times be open to inspection by any police officer to determine whether or not this code and all other laws are being observed. By accepting the license, the licensee consents to such inspection by such officers without a warrant for searches or seizures.

Subd. 2. It is unlawful for a licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making an inspection.

1200.33. Financial responsibility of licensees. Subdivision 1. An alcoholic beverage license may not be issued or renewed unless and until the applicant has provided proof of financial responsibility, imposed by law, by filing with the city a certificate that there is in effect an insurance policy or pool providing minimum coverages of (i) \$50,000 because of bodily injury to any one person in any one occurrence, and \$100,000 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$10,000 because of injury to or destruction of property of others in any one occurrence, and (ii) \$50,000 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of \$300,000 may be included in the insurance coverage.

Subd. 2. Exception. This section does not apply to on-sale beer licensees with sales of beer of less than \$25,000 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$50,000 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$25,000 for the preceding year, or as otherwise provided by law. An affidavit of the licensee is required to establish this exemption.

Subd. 3. Documents submitted to commissioner. Proof of financial responsibility and exemption affidavits filed with the city under this section will be submitted by the city to the commissioner.

1200.35. Insurance certificate requirements. If an insurance certificate is required by this section the applicant must file with the city administrator a certificate of insurance showing (i) that the limits are at least as high as required, (ii) that coverage is effective for at least the license term approved, and (iii) that insurance will not be cancelled or terminated without 30 days' written notice served upon the city administrator. Cancellation or termination of coverage is grounds for license revocation.

1200.37. License fees - fixing and refundment. Subdivision 1. Fixing fees. Fees for licenses, including, but not by way of limitation, license fees, investigation and administration fees, and training verification fees, are contained in appendix I. For the purpose of fixing such fees, the council may categorize and classify, provided, that such categorization and classification must be included in the resolution fixing the fees. (Amended, Ord. No. 67, Third Series)

Subd. 2. Refundment. A pro-rata share of an annual license fee for a license to sell alcoholic beverages, either on-sale or off-sale, will be refunded to the licensee, or to the licensee's estate, if: (i) the business ceases to operate because of destruction or damage; (ii) the licensee dies, or, (iii) the business ceases to be lawful for a reason other than a license revocation or suspension.

1200.39. Minors - unlawful acts. Subdivision 1. Consumption. It is unlawful for (i) licensee to permit any minor to consume alcoholic beverages on licensed premises; or (ii) a 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.

Subd. 2. Purchasing. It is unlawful for a (i) 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; or (ii) a minor to purchase or attempt to purchase an alcoholic beverage; or (iii) a person to induce a minor to purchase or procure an alcoholic beverage.

Subd. 3. Possession. It is unlawful for a minor to possess an 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 the minor's parent or guardian.

Subd. 4. Entering licensed premises. It is unlawful for a minor to enter a licensed premise or the municipal liquor store for the purpose of purchasing or consuming an alcoholic beverage. It is not unlawful for a person who has attained the age of 18 years to enter licensed premises for the following purposes: (i) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (ii) to consume meals; and (iii) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of 18 years to enter a licensed premise unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

Subd. 5. Misrepresentation of age. It is unlawful for a minor to misrepresent the minor's age for the purpose of purchasing an alcoholic beverage.

Subd. 6. Proof of age. Proof of age for purchasing or consuming alcoholic beverages may be established only by (i) a valid driver's 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; (ii) a valid military identification card issued by the United States department of defense; or (iii) in the case of a foreign national and if from a nation other than Canada, by a valid passport.

1200.41. Consumption and possession of alcoholic beverages on streets, public property, and private parking lots to which the public has access. It is unlawful to consume, or possess in an unsealed container, an alcoholic beverage in or on a (i) city park, (ii) street, (iii) public property, or (iv) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted or licensed by the council. This subsection does not apply to the possession of an unsealed container in a motor vehicle 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 subsection, a utility or glove compartment is deemed to be within the area occupied by the driver or passengers.

1200.43. Alcoholic beverages in certain buildings and grounds. It is unlawful to store, introduce upon, or have in possession upon, or in, a school ground, or a schoolhouse or school building, or a city building, premise or property, an alcoholic beverage, except for experiments in laboratories and except for those organizations that have been issued temporary licenses to sell beer, and for a person to possess beer as a result of a purchase from those organizations holding temporary licenses, or as otherwise authorized or licensed by the city. (Amended, Ord. No. 29, Third Series)

1200.45. Alcoholic beverages - certain unlawful acts. It is unlawful for a: (i) person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage; (ii) licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated; (iii) licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises; (iv) licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law; (v) 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; or (vi) person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

1200.47. Beer license required. It is unlawful, 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 therefor from the city. This section does not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the city.

1200.49. Temporary beer license. Subdivision 1. Applicant. A club or charitable, religious, or non-profit organization may apply for a temporary on-sale beer license.

Subd. 2. Times. An application for a temporary license must state the exact dates and place of the proposed temporary sale.

Subd. 3. Total days. An applicant may not be qualified for a temporary license for more than a total of seven days in any calendar year.

Subd. 4. The council may grant a temporary beer license on premises owned or controlled by the city. The license may be conditioned, qualified or regulated as the council sees fit. If the premises to be licensed are owned or under the control of the city, the applicant must file with the city, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000.00 for injury to any one person and \$100,000.00 for injury to more than one person, naming the city as an additional insured during the license period.

1200.51. Beer license restrictions and regulations. Subdivision 1. Gambling or gambling devices are not permitted on any licensed premises, except those licensed by the charitable gambling control board.

Subd. 2. A licensee may not, 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 is grounds for immediate revocation, without a hearing.

Subd. 3. A license may not be granted to a wholesaler or manufacturer of beer or to anyone holding a financial interest in such manufacture or wholesaling.

Subd. 4. On-sale licenses are granted only to drug stores, restaurants, hotels and bona fide clubs.

Subd. 5. A license will be granted subject to the provisions of this subsection and all other applicable provisions of the code and other laws relating to the operation of licensee's business.

1200.53. Hours and days of beer sales. Sale of beer may not be made between the hours of 1:00 a.m. and 8:00 a.m., Monday through Saturday, inclusive, nor on any Sunday between the hours of 1:00 a.m. and 10:00 a.m., nor on Thanksgiving or Christmas day. (Amended, Ord. No. 55, Third Series; Ord. 60, Third Series)

1200.55. 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 therefor from the city. This section does not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding liquor licenses from the city.

1200.57. Liquor license restrictions and regulations. Subdivision 1. Prior to issuance of any on-sale license the applicant must file with the city administrator a bond with a corporate surety, cash, or United States government bonds in the sum of \$3,000.

Subd. 2. A license is not effective until a permit is issued to a licensee pursuant to law.

Subd. 3. Gambling or gambling devices are not permitted on any licensed premises, except those that are licensed by the charitable gambling control board.

Subd. 4. A person under 18 years of age may not sell or serve liquor on a licensed premises.

Subd. 5. A licensee may not sell, offer for sale, or keep for sale, liquor in an original package that has been refilled or partly refilled.

Subd. 6. A licensee may not display liquor to the public during hours when the sale of liquor is prohibited.

Subd. 7. On-sale liquor licenses may be granted only to hotels, clubs and restaurants, as defined in this section. (Amended, Ord. No. 31, Third Series)

Subd. 8. A license is granted subject to the provisions of this subsection and all other applicable provisions of the code and other laws relating to the operation of the licensed business.

1200.59. Sunday on-sale liquor license. Subdivision 1. Any restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons which holds an on-sale intoxicating liquor license may be issued a license to sell intoxicating liquor on Sunday for consumption on the premises in conjunction with the sale of food upon making application for such license and paying the fees herein required. (Added, Ord. No. 60, Third Series)

Subd. 2. The annual fee for a Sunday liquor license shall be set forth in appendix I of this code. Each license shall expire one year from the date of issuance. (Added, Ord. No. 60, Third Series)

Subd. 3. Sale of intoxicating liquor shall be allowed between the hours of 10:00 a.m. on Sunday and 1:00 a.m. on Monday. (Added, Ord. No. 60, Third Series)

1200.61. Hours and days of liquor sales. Sales of liquor may not be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, inclusive, between the hours of 1:00 a.m. and 10:00 a.m. on Sundays, nor after 8:00 p.m. on December 24. Liquor may not be sold on Thanksgiving Day or Christmas Day. (Amended, Ord. No. 55, Third Series; Ord. No. 60, Third Series)

1200.63 Caterer's permit. Pursuant to the authority of Minnesota Statutes Section 340A.404, Subdivision 12, the Commissioner may issue a caterer's permit to a restaurant that holds an on-sale intoxicating liquor license issued by any municipality. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale intoxicating liquor license is issued. (Added, Ord. No. 74, Third Series)

- a) A caterer's permit is auxiliary to the primary on-sale license held by the licensee, hereinafter referred to as the "permittee" when operating within the City.
- b) The restrictions and regulations which apply to the sale of intoxicating liquor on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the permittee is operating other than on the licensed premises under a caterer's permit.
- c) Any act, which if done on the licensed premises would be grounds for cancellation or suspension of the on-sale licensee, is grounds for cancellation of both the on-sale license and the caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.
- d) Prior to any catered event, the permittee shall notify the chief of police of the City as to the date, time and location of the catered event.
- e) If the primary license ceases to be valid for any reason, the caterer's permit ceases to be valid and the permittee shall not be authorized to operate within the City.
- f) A caterer's permits issued by the Commissioner is subject to all laws and City ordinances governing the sale of intoxicating liquor except those laws and City ordinances which by their nature are not applicable.
- g) Prior to any catered event, and in addition to the annual state fee imposed by the Commissioner for a caterer's permit, the permittee shall pay and the City shall collect a special event fee for each and every time that the permittee pursuant to the caterer's permit caters an event in the City. The special event fee shall be \$250. (Added, Ord. No. 74, Third Series)

SECTION 1205 - MUNICIPAL DISPENSARY

1205.01. Establishment. A municipal dispensary is established to be operated within the city for the sale of liquor potable as a beverage and containing more than 3.2 percent of alcohol by weight. The dispensary will be at such place or places as the council determines and may be either leased or owned by the city. The dispensary is to be managed by a person known as the manager who will have such assistants as may be necessary. All employees, including the manager, hold their positions at the pleasure of the council.

1205.03. Dispensary fund. A liquor dispensary fund is created and continued into which all revenues received from the operation of the dispensary are to be paid, and from which all operating expenses are to be paid. Any surplus accumulating in this fund may, from time to time, be transferred to the general fund by resolution of the council, and expended for any municipal purpose.

SECTION 1210 - ON-SALE WINE

1210.01. On-sale wine license required. It is unlawful to sell, or keep or offer for sale, wine without a license therefor. This section does not apply (i) to possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony; (ii) to sales by manufacturers to wholesalers duly licensed as such by the state of Minnesota; (iii) to sales by wholesalers to persons holding on-sale liquor licenses from the city; or (iv) to sales by wholesalers to persons holding on-sale wine license from the city.

1210.03. On-sale wine license restrictions and regulations. Subdivision 1. Prior to issuance of an on-sale wine license the applicant must file with the city administrator a bond with a corporate surety, cash, or United States government bonds in the sum of \$3,000.

Subd. 2. A license will not be granted to a wholesaler or manufacturer of wine, or to anyone holding a financial interest in such manufacture or wholesaling.

Subd. 3. A license is not effective until a permit is issued to a licensee pursuant to law.

Subd. 4. Gambling or gambling devices are not permitted on any licensed premises, except those licensed by the charitable gambling control board.

Subd. 5. A person under 18 years of age may not sell or serve wine on licensed premises.

Subd. 6. A licensee may not display wine to the public on days or during hours when the sale of wine is prohibited.

Subd. 7. On-sale wine licenses will be granted only to restaurants. The restaurant must have appropriate facilities for seating not less than 25 guests at one time.

Subd. 8. A license is granted subject to the provisions of this section and all other applicable provisions of the code and other laws relating to the operation of the licensed business.

1210.05. Hours and days of sales by on-sale wine licensees. On-sale of wine may not be made between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, inclusive, between the hours of 1:00 a.m. and 10:00 a.m. on Sundays, nor after 8:00 p.m. on December 24. On-sale of wine may not be made on Thanksgiving Day or Christmas Day. (Amended, Ord. No. 56, Third Series; Ord. No. 60, Third Series)

SECTION 1215 - CONSUMPTION AND DISPLAY

1215.01. Consumption and display license required. It is unlawful for any business establishment or club not holding an on-sale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to such members, without a license therefrom from the city.

1215.03. Consumption and display restrictions and regulations. Subdivision 1. Eligible licensees. If the applicant is otherwise eligible, licenses may be issued only to (i) persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this chapter or other law relating to the sale or furnishing of alcoholic beverages; (ii) a restaurant; (iii) a hotel; (iv) a beer licensee; (v) a resort as defined by statute; or (vi) a club or an unincorporated club otherwise meeting the definition of a club, provided, that a license may not be issued to a club holding an on-sale liquor license.

Subd. 2. Unlawful act. It is unlawful to sell liquor on licensed premises.

Subd. 3. License expiration. In order to coordinate the expiration of a consumption and display license with a state permit, all licenses expire on June 30 of each year.

Subd. 4. State permit required. Licenses will be issued only to holders of a consumption and display permit from the commissioner.

Subd. 5. Lockers. A club to which a license is issued may allow members to bring and keep a personal supply of liquor in lockers on the club's premises. Bottles kept on the premises must have attached labels signed by the member. A minor may not keep a supply of liquor on club premises.

Subd. 6. Hours and days. A licensee may not permit a person to consume or display liquor, and it is unlawful to consume or display liquor, between 1:00 a.m. and 10:00 a.m. on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday. (Amended, Ord. No. 60, Third Series)

1215.05. Consumption and display - one day license. Subdivision 1. License required. A non-profit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it, must first obtain a license therefor from the city.

Subd. 2. Term. The term of the license is one day.

Subd. 3. Limitation on number. The city will issue no more than ten consumption and display licenses in any calendar year.

Subd. 4. License fee. The fee for a one-day license is set by appendix I.

Subd. 5. Approval. In addition to council approval, the license must be approved by the commissioner.

1215.07. Nudity or obscenity in liquor establishments. Subdivision 1. Definitions. As used in this section, the following words and terms have the meanings given them.

Subd. 2. "Nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic area, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

Subd. 3. "Obscene performance" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

Subd. 4. "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

Subd. 5. "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Subd. 6. "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Subd. 7. "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Subd. 8. "Unlawful Act" It is unlawful for any person issued a license provided for in this chapter to permit upon the licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

SECTION 1220 – SOCIAL HOST ORDINANCE

(Added, Ord. No. 61, Third Series)

1220.01. Purpose and findings. Subdivision 1. The Kenyon city council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Kenyon city council finds that:

Subd. 2. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of 21 are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

Subd. 3. Prohibiting underage consumption acts will protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

Subd. 4. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

Subd. 5. 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.

Subd. 6. 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.

Subd. 7. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

1220.03. Definitions. Subdivision 1. The terms defined in this subsection have the meanings given them.

Subd. 2. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

Subd. 3. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

Subd. 4. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

Subd. 5. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

Subd. 6. "Parent" means any person having legal custody of a juvenile:

- a) As natural, adoptive parent, or step-parent;
- b) As a legal guardian; or
- c) As a person to whom legal custody has been given by order of the court.

Subd. 7. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

Subd. 8. "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.

Subd. 9. "Underage person" is any individual under 21 years of age.

1220.05. Prohibited acts. Subdivision 1. It is unlawful for any person(s) to;

- a) Host or allow an event or gathering;
- b) At any residence, premises, or on any other private or public property;
- c) Where alcohol or alcoholic beverages are present;
- d) 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

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

Subd. 2. A person is criminally responsible for violating subdivision 1 above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

Subd. 3. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

1220.07. Exceptions. Subdivision 1. This section does not apply to conduct solely between an underage person and their parents while present in the parent's household.

Subd. 2. This section does not apply to legally protected religious observances.

Subd. 3. This section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minnesota Statutes Section 340A.503, subdivision 1 a)(1).

Subd. 4. This section does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

1220.09. Enforcement. This section can be enforced by any police officer.

1220.11. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this section 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 of invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

1220.13. Penalty. Violation of section 1220.05 is a misdemeanor.

SECTION 1225 – OUTDOOR ALCOHOL SERVICE AND
CONSUMPTION ENDORSEMENT
(Added, Ord. No. 70, Third Series)

1225.01. Special endorsement. A special endorsement may be issued by the city council to the holder of an on-sale liquor, on-sale beer, or on-sale wine license to allow sales and consumption of alcohol outdoors provided that the outdoor service area is immediately adjacent to and contiguous with the licensed premises. If the special endorsement is approved by the city council, the city shall file it with the Minnesota Department of Public Safety – Alcohol Enforcement Division.

1225.03. Application and issuance. The licensee shall make application for the special endorsement to the city, pay the application fee that is specified in the city's fee schedule, if any, and provide a site plan map which illustrates and specifically describes the proposed outdoor service area, including, but not limited to the requirements set forth in Section 1225.05, such as the fence, access to and egress from the outdoor service area, and any amenities included in the outdoor service area. The special endorsement may be issued by the city council to the licensee by resolution.

1225.05. Outdoor service area requirements. The following requirements shall be applicable to all outdoor service areas:

- a) Service in the outdoor service area must be provided only at tables, however, this shall not prohibit patrons from being able to carry beverages from an inside area in the establishment to the outdoor service area;
- b) No bar shall be located in the outdoor service area, with the exception of a service bar that is exclusively used by the establishment's employees;
- c) The outdoor service area must not reduce the number of off-street parking spaces which would be required if the licensed premises together with the outdoor service area were to be newly constructed in conformance with the city's zoning code;
- d) All new and remodeled outdoor service areas must be handicap accessible. All existing outdoor service areas shall comply with building codes relating to handicap accessibility. No outdoor service area shall reduce or limit existing handicap accessibility;
- e) Access to and egress from the outdoor service area must only be through a door connecting the area to the licensed premises;
- f) The licensee must pick up trash or litter generated by the operation of the outdoor service area within a reasonable distance from the area;

- g) The outdoor service area must be enclosed by a fence that is at least four feet high;
- h) The outdoor service area must have secured controlled access, preferably through the establishment; and
- i) Any other requirements deemed necessary by the city council.

1225.07. Additional Requirements and Restrictions. The city council, in its discretion, may place any of the following additional requirements and restrictions on the outdoor service area:

- a) Restrict the days and hours of operation of and noise generation from the outdoor service area based upon the proximity of the area to residential dwelling units and upon considerations relating to safety, repose, and welfare of the residents, businesses, and other uses near the establishment;
- b) Require improvements to the outdoor service area prior to issuance of the special endorsement, including, but not limited to, safety barriers or other enclosures to be placed around the perimeter of the outdoor service area in order to protect patrons from any hazards, including vehicular traffic;
- c) Restrict the days, hours, and nature of allowed entertainment in and noise generation from the outdoor service area in order to protect the safety, repose, and welfare of the residents, businesses and other uses near the establishment; and
- d) Such other restrictions deemed necessary by the city council.

1225.09. Renewal and Revocation. The city council may review the operation of the outdoor service area in connection with the renewal of the on-sale license for the establishment or at any other time for good cause. Violation of the terms and conditions of this section shall be grounds for revocation, suspension, or refusal to renew the endorsement pertaining to the outdoor service area.