

125B. ALCOHOLIC BEVERAGES

125B.01. Definitions. Subdivision 1. Except as provided below or where the context clearly indicates otherwise, the words, phrases, and terms used in this chapter shall have the meanings attributed to them in Minnesota Statutes §340A.101.

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

Subd. 3. "Applicant" means the person signing the alcoholic beverage license application form and, in the case of a partnership, association, corporation, or other legal entity, includes the business organization or other entity on behalf of which the application is made.

Subd. 3a. "Brew pub" means a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by state law. (4195, 5/18/15)

Subd. 4. "City" means the City of Rochester, Minnesota.

Subd. 5. "Civic Center" means the structure owned by the City which is located at Second Avenue S.E. and East Center Street in the City and which is known as the Mayo Civic Center.

Subd. 6. "Commissioner" means the Commissioner of Public Safety.

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:

- A. has more than 30 members;
- B. 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;
- C. is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held

for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

- D. does not restrict its membership on the basis of race, color, creed, religion or national origin.

Subd. 8. "Drug store" means any place where drugs are kept, compounded and sold, and which at all times is in charge of a registered pharmacist or a registered assistant pharmacist during the temporary absence of the registered pharmacist.

Subd. 9. "Exclusive liquor store" is an establishment used exclusively for the sale of those items listed in Minn. Stat. Section 340A.12, subd. 14. An on-sale exclusive liquor store may sell food for on-premises consumption.

Subd. 10. "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has:

- A. A dining room serving the general public at tables and having facilities for seating at least 15 guests at one time;
- B. A minimum of 50 guest rooms with bedding and other suitable and necessary furnishings in each such room;

Subd. 11. "Intoxicating liquor" means ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 12. "Licensed premises" means the premises described in the approved license application. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Subd. 13. "Minnesota Liquor Act" or "Liquor Act" means the provisions contained in Minnesota Statutes, Chapter 340A, as amended.

Subd. 14. "3.2 percent malt liquor" means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

CHAPTER 125B. ALCOHOLIC BEVERAGES

Subd. 15. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subd. 16. "On-sale" means the sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 17. "Package" means a sealed or corked container of alcoholic beverages.

Subd. 18. "Public facility" means a park, community center, or other accommodation or facility owned or managed by or on behalf of a subdivision of the state, Olmsted County or the City.

Subd. 19. "Restaurant" means:

- A. 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 a minimum seating capacity for serving meals to not less than 15 guests at one time.
- B. notwithstanding the provisions of the preceding subparagraph and with the specific intent to include hotel establishments within application of this paragraph, the term "restaurant" for purposes of a Wine license shall mean an establishment as otherwise described above which has seating capacity for serving meals to not less than 15 guests at one time.
- C. notwithstanding the provisions of the preceding subparagraph A, an Intoxicating Liquor/On-Sale Exclusive Liquor Store may be deemed a "restaurant" for purposes of a Special Sunday license even though the principal part of its business is not the serving of foods, provided that it has appropriate facilities for serving meals to at least 15 guests at one time and that it also meets the requirements of subparagraph A of this subdivision.
- D. notwithstanding the provisions of subparagraph A, the term "restaurant" for purposes of the Intoxicating Liquor/Civic Center and Special Sunday license provisions of this ordinance shall include the facilities available to and operated by the concessionaire at the Civic Center.

(3844, 11/19/07)

Subd. 20. "Sale" and "Seller" and "Sold" means all barter and all manners or means of furnishing an alcoholic beverage including such furnishing as is in violation or evasion of law.

125B.02. License Required. Except as provided in this chapter, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license for the type and class of alcoholic beverage transaction in which engaged. Notwithstanding the above, any on-sale or off-sale intoxicating liquor licensee shall not be required to obtain a 3.2 percent malt liquor license, and may sell 3.2 percent malt liquor beverages under the same circumstances and subject to the same restrictions as applicable to the licensee's sale of intoxicating beverages. Rental of or permission to use a public facility is not a commercial transaction for purposes of this chapter.

125B.03. Eligibility for License. Subdivision 1a. No license for the sale of alcoholic beverages shall be issued to a person:

- A. under twenty-one years of age;
- B. not of good moral character or repute;
- C. who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- D. not a proprietor of the establishment for which the license is to be issued;
- E. who, within five years of the license application, has been convicted of a 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;
- F. who has failed to provide all application information required by this chapter; or

- G. who has provided false or misleading information on the application form, any attachment to the application form or any document provided to the City Clerk as part of the application process.

(4051, 2/22/12)

Subd. 1b. For purposes of this section, the term “willful violation” does not include a violation of any state law or city ordinance prohibiting the sale or distribution of an alcoholic beverage to a person under the age of 21 unless the violation is a part of a recent and repeated history of selling or distributing alcoholic beverages to underage persons.

Subd. 1c. For purposes of this section, the terms “issued” or “granted” include the initial issuance of a license, and the renewal or transfer of that license.

Subd. 2. In the case where a partnership, corporation or association is the person seeking the license for the sale of alcoholic beverages, the term “person” as used in subdivision 1a(E) includes partners, corporate officers, officers or shareholders of the partnership, corporation or association.

Subd. 3. No intoxicating liquor license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the city are delinquent and unpaid. This subdivision does not apply if the applicant has provided sufficient safeguards to assure payment of debts or compliance with city requirements within a reasonable time after the city approval or authorization. (4054, 3/5/12)

Subd. 4. Limitations on issuance of licenses to one place or person.

- A. Except as may be allowed by State law, no more than one retailer’s intoxicating liquor license may be issued for one place. Except as hereinafter provided, no more than one Intoxicating Liquor/On-Sale Exclusive Liquor Store license may be issued to one person. Additional Intoxicating Liquor/On-Sale Exclusive Liquor Store limited licenses may be issued to a licensee who also possesses a State-issued caterer’s permit and shall authorize the sale of alcoholic beverages on the licensed premises in conjunction with private events held on the licensed premises.
- B. A license shall be considered directly or indirectly issued to any one person if that person has an interest in the license. The term “interest” means any pecuniary interest in the

ownership, management, or profits of a retail liquor establishment, and includes the receipt of money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations.

- C. The term "interest" does not include the following:
- (1) Loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, or supplies to the establishment;
 - (2) ownership of ten percent or less interest in any other corporation holding a license; and,
 - (3) an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction herewith.
- D. In determining whether an "interest" exists, the transaction must have been bona fide and the reasonable value of the good and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this subdivision shall be considered.
- E. Notwithstanding any provision of this subdivision to the contrary, only one off-sale intoxicating liquor license may be directly or indirectly issued to any one person. (3833, 9/17/07; 4017, 5/2/11)

125B.04. License Classes. Subdivision 1. Intoxicating Liquor Licenses.

- A. "Intoxicating Liquor/On-sale Exclusive Liquor Store" license authorizes an exclusive liquor store to sell alcoholic beverages at retail to the public for consumption only on the licensed premises, which license is commonly referred to as a "street bar license."
- B. "Intoxicating Liquor/Restaurant & Hotel" license authorizes a hotel or restaurant to sell alcoholic beverages at retail to the public for consumption only on the licensed premises.
- C. "Intoxicating Liquor/Off-sale Exclusive Liquor Store" license

authorizes an exclusive liquor store to sell alcoholic beverages at retail in original packages to the public for consumption off the licensed premises only, which license is commonly referred to as a "package liquor store license". In addition, "wine samples" or "malt liquor samples" as specified in Minnesota Statutes, Section 340A.510, may be provided to the general public.

- D. "Intoxicating Liquor/Club" license authorizes a club which has been in existence for at least three years to sell alcoholic beverages at retail for consumption only on the licensed premises to its members and to bona fide guests in the company of members.
- E. "Wine" license authorizes a restaurant having facilities for seating at least 15 guests to sell wine up to 14 percent alcohol content by volume at retail to the public for consumption only on the licensed premises in conjunction with the sale of food. A restaurant holding both a "Wine" license and a "3.2 percent malt liquor/On-sale" license pursuant to Subdivision 2(A) of this section may also serve intoxicating malt liquor so long as the restaurant's gross receipts are at least 60 percent attributable to the sale of food, and the licensee has proof of financial responsibility as required by Minnesota Statutes, Section 340A.409.
- F. "Intoxicating Liquor/On-Sale Temporary" license authorizes: (1) a club or charitable, religious, or other nonprofit organization in existence for at least three years, (2) a political committee registered under Minn. Stat. section 10A.14, or (3) a state university, for a term not to exceed four consecutive days, to sell or to contract for the off-premises sale of intoxicating liquor. If the club or organization holds an existing intoxicating/on-sale liquor license, it may sell intoxicating liquor during the permitted term at a place other than its licensed premises. If the club or organization does not hold a permanent liquor license, it may contract with an existing on-sale intoxicating liquor licensee to sell intoxicating liquor at a place other than the existing licensee's licensed premises. The sale of intoxicating liquor under this provision must be in connection with a social event within the City of Rochester sponsored by the licensee. A temporary on-sale license issued under this paragraph shall not be considered a separate license under the provisions of section 125B.03, subd. 5, and shall not be subject to the zoning ordinances under the provisions of sections 125B.16 and 125B.17. The

applicant for a temporary on-sale license shall not be required to pay an investigation fee as otherwise required by section 125B.086. Unless otherwise provided for in this paragraph, licenses issued pursuant hereto are subject to all other provisions of this chapter.

- G. “Intoxicating Liquor/On-Sale County Fair” license authorizes a person licensed under subdivision 1(B) or 1(C) of this section to sell intoxicating liquor for on-sale consumption upon those portions of the Olmsted County Fairgrounds designated by the Olmsted County Fair Board for alcoholic beverage consumption. An application for this license must be approved by the Olmsted County Fair Board and must comply with all requirements of this chapter. This license is valid only during the time the Olmsted County Fair is in session.

- H. “Small Brewer – Off-Sale” license authorizes a brewer licensed under Minn. Stat. 340A.301, subd. 6, clause (c), (i), or (j), with the approval of the commissioner, to sell malt liquor at its licensed premises that has been produced and packaged by the brewer in compliance with state law. A brewer may have on Small Brewer – Off-Sale license and the amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores, except that malt liquor in growlers only may be sold at off-sale on Sundays. (4169, 9/3/14; 4195, 5/18/15; 4211, 9/21/15)

- I. “Brewer Taproom – On-Sale” license authorizes the holder of a brewer’s license under Minn. Stat. 340A.301, subd. 6, clause (c), (i) or (j) to sell malt liquor produced by that brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. (4195, 5/18/15)

- J. “Brew Pub – On-Sale” license authorizes a brew pub to sell malt liquor for consumption at a restaurant operated in the place of manufacture. (4195, 5/18/15)

- K. Brew Pub – Off-Sale” license authorizes a brew pub that holds an on-sale license, with the approval of the commissioner, to sell malt liquor produced and packaged on the licensed premises in compliance with state law. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores, except that malt liquor in growlers only may be sold at off-sale on Sundays. (4195, 5/18/15; 4211, 9/21/15)

(3863, 5/5/08; 4126, 9/4/13; 4195, 5/18/15)

Subd. 2. 3.2 percent Malt Liquor Licenses.

- A. "3.2 percent Malt Liquor/On-sale" license authorizes a drugstore, restaurant, hotel, club, professional sports team, or an establishment used exclusively for the sale of 3.2 percent malt liquor with only incidental sales of tobacco and soft drinks, to sell 3.2 percent malt liquor at retail to the public for consumption only on the licensed premises; provided that any club so licensed may only sell 3.2 percent malt liquor to its members and to bona fide guests in the company of members.
- B. "3.2 percent Malt Liquor/Off-Sale" license authorizes a club or other business establishment, other than an automobile service or filling station as that term is defined in the Zoning Code, to sell 3.2 percent malt liquor in original packages at retail to the public for consumption only off of the licensed premises.
- C. "3.2 percent Malt Liquor/On-Sale Temporary" license authorizes a club or other charitable, religious, or non-profit organization, for a term not to exceed ten consecutive days, to sell 3.2 percent malt liquor at retail to the public for consumption on the licensed premises.

(4087, 10/1/12; 4126, 9/4/13)

Subd. 3. Bottle Club Permits

- A. No business establishment or club which does not have an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner of public safety. This permit shall not be effective until approved by the City Council.
- B. "One-day Consumption and Display" City permit authorizes a non-profit organization to allow the consumption and display of intoxicating liquor, and the serving of liquids for the purpose of mixing with intoxicating liquor, on the licensed premises in conjunction with a social activity sponsored by it during the one day for which the permit is issued. This permit must be

approved by the commissioner of public safety before it is effective.

Subd. 4. Special Sunday License. Hotels, restaurants, and clubs, holding an on-sale intoxicating liquor license may apply for a Special Sunday license authorizing the establishment to sell intoxicating liquor for consumption on the licensed premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 1:00 a.m. on Mondays. A licensee holding a Brew Pub – On-Sale or Brewer Taproom – On-Sale license may apply for a Special Sunday license authorizing the sale of malt liquor between the hours of 8:00 a.m. and 1:00 a.m. on Mondays. A licensee holding a Brew Pub – Off-Sale or Small Brewer – Off-Sale license may apply for a Special Sunday license authorizing the off-sale of malt liquor growlers between the hours of 8:00 a.m. and 10:00 p.m. (4169, 9/3/14; 4195, 5/18/15; 4211, 9/21/15; 4213, 9/28/15)

Subd. 5. Dance License. On-sale alcoholic beverage licensees may apply for a dance license which authorizes the holder to allow dancing on the licensed premises.

Subd. 6. License Classes Limited. Only licenses for the classes indicated and for the limited purposes specified in this section will be granted or approved by the council.

Subd. 7. Collegiate Baseball Team Wine/Malt Liquor. Notwithstanding any provision of this chapter to the contrary, a person who is the owner of a summer collegiate league baseball team, or a person holding a concessions or management contract with the owner, for beverage sales at a ballpark or stadium located within the city for the purposes of summer collegiate league baseball games at the ballpark or stadium, may apply for and receive an on-sale wine license or an on-sale malt liquor license for sales on all days of the week to persons attending baseball games at the ballpark or stadium. (4041, 12/5/11)

Subd. 8. Any person intending to serve alcohol under the authority of a state-issued caterer's permit shall first notify the City Clerk and the Chief of Police of the event at least seven days in advance. 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.

125B.041. Municipal Facilities. Subdivision 1. Any retail on-sale intoxicating liquor licensee is authorized to dispense intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City of Rochester, or any instrumentality thereof, or the Peace Plaza as that term is

defined by section 45D.01, located within the City of Rochester, or at such a facility managed or operated by the City of Rochester on behalf of another governmental entity. The dispensing of the intoxicating liquor must occur in compliance with the provisions of this section. The licensee must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the premises and may dispense intoxicating liquor only to persons attending the event. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur youth athletic event for persons 18 years of age or younger, held on the premises. The licensee must use those containers specified by the City, if any, in dispensing intoxicating liquor as permitted by this subdivision. The licensee shall notify the City Clerk of the event at least seven days in advance and shall provide proof of liability insurance specifically covering the event. (3932, 7/20/09)

Subd. 2. Any retail on-sale intoxicating liquor licensee may also dispense intoxicating liquor off-premises at a Community Festival held within the City of Rochester. The term "Community Festival" refers to a community event celebrating the people, history, food, culture, music or events of the City of Rochester as declared by resolution of the Common Council. The licensee must notify the City Clerk of its intent to serve at the community festival, must specify the area in which the intoxicating liquor will be dispensed and consumed, and shall demonstrate that it has liability insurance as prescribed by Minn. Stat. Section 340A.09 that covers the event. The licensee must use those containers specified by the City, if any, in dispensing intoxicating liquor at the Peace Plaza or a Community Festival. (3932, 7/20/09)

Subd. 3. Notwithstanding any provisions of this Chapter to the contrary, a 3.2 percent malt liquor on-sale license may be issued to a non-profit association comprised of members participating in city-sponsored adult athletic competitions at McQuillen Park. A licensee is authorized to dispense non-intoxicating malt at retail for consumption only in McQuillen Park during city-sponsored adult athletic competitions subject to the following conditions:

- A. The licensee must enter into a valid concession contract with the City of Rochester prior to making any sales authorized by its license;
- B. The license shall be valid only from April 15 through October 31 of each year;
- C. Sales shall be allowed from 5:30 p.m. to 10:30 p.m. from Monday through Friday, from 9:00 a.m. to 10:30 p.m. on Saturdays, and from 12:00 noon to 7:00 p.m. on Sundays,

except that such times may be extended upon application to and issuance of a permit by the City Council following approval by the Park Board;

- D. The licensee may prohibit the carrying in of alcoholic beverages for personal consumption by the public on Saturdays and Sundays only;
- E. The licensee shall provide an executed document approved by the City Attorney holding the city harmless and indemnifying and defending the city from any and all claims related to or arising from the dispensing of 3.2 percent malt liquor at McQuillen Park; and,
- F. All sections of this chapter not inconsistent with the provisions of this section shall apply.

125B.042. Off-Sale Licensee Performing Liquor Services.

Subdivision 1. The Common Council seeks to address an ongoing problem within the City involving off-sale licensees engaging in liquor services without the benefit of a retail on-sale intoxicating liquor license or a state-issued catering permit issued pursuant to Minn. Stat. 340A.404, subd. 12. The problem occurs when off-sale licensees who do not have a retail on-sale intoxicating liquor license or a State catering permit solicit liquor services, offer to sell and deliver alcoholic beverages to a customer's site, and provide bartending services. This ongoing problem poses a threat to the public health, safety, and welfare as: (a) there is no insurance coverage in place to protect those who may be injured by such activities; (b) there is an uneven playing field with those who seek and obtain the required licenses and permits. The Council adopts this provision in its effort to solve this problem.

Subd. 2. For purposes of this section, the term "liquor services" means the sale or distribution of intoxicating liquor at a place other than the premises for which the license holder's off-sale intoxicating liquor license is issued. For purposes of this section, the term "bartending services" means the mixing, serving, or selling of intoxicating liquor drinks at a location other than the off-sale licensee's licensed premises.

Subd. 3. For purposes of this section an off-sale licensee who also possesses a retail on-sale intoxicating liquor license may carry that license to a municipal facility or to a community festival as provided for in RCO 125B.041. A licensee holding a State-issued caterer's permit may carry its license to any location so long as the licensee complies with the requirements of Minn. Stat. 340A.404, subd. 12.

Subd. 4. No off-sale licensee may solicit, advertise, or promote itself as being available to provide liquor services unless the licensee also possesses a retail on-sale intoxicating liquor license or a State-issued catering permit.

Subd. 5. No off-sale licensee may engage in liquor services unless the licensee also possesses a retail on-sale intoxicating liquor license or a State-issued catering permit.

Subd. 6. No off-sale licensee may permit any of its employees to engage in bartending services in conjunction with the off-sale licensee's sale of intoxicating liquor.

Subd. 7. No employee of any off-sale licensee may engage in bartending services in conjunction with the off-sale licensee's sale of intoxicating liquor.

Subd. 8. Any off-sale licensee who violates subdivisions 4, 5, or 6 is subject to those license sanctions provided in section 125B.27. Any person who violates subdivision 7 is guilty of a misdemeanor.

125B.043. Bartending Services. Subdivision 1. The Common Council also seeks to address an ongoing problem within the City involving the provision of bartending services where alcoholic beverages are provided to guests at an open bar and not as part of a commercial transaction. In these circumstances the bartending service is not subject to any form of liquor license or any requirement to obtain liquor liability insurance. The resulting problem is that the event host is likely unaware of the liability he or she is assuming. The Council adopts this provision in its effort to solve this problem.

Subd. 2. For purposes of this section, the term "bartending services" means the provision of alcoholic beverages by a paid bartender to guests at an event under circumstances that are not part of a commercial transaction and for which a liquor license is not required.

Subd. 3. Any person providing bartending services at an event within the City shall notify the City Clerk not less than 10 days before the event and shall provide a copy of an agreement between the person or entity providing the bartending services and the event host. The agreement must identify whether the person or entity providing bartending services carries liquor liability insurance and, if so, whether the policy contains an endorsement making the event host an additional insured.

Subd. 4. Any person who violates this section is guilty of a misdemeanor. (4174, 11/17/14)

125B.05. Numbers of Licenses. Subdivision 1. Except as otherwise indicated in this section or restricted by the Minnesota Liquor Act, the common council may issue such numbers of licenses for each license class as it deems appropriate.

Subd. 2. Intoxicating Liquor/On-sale Exclusive Liquor Store Licenses. The number of Intoxicating Liquor/On Sale Exclusive Liquor Store licenses shall not exceed 25. However, three additional licenses may be issued for each 10,000 inhabitants of the City in excess of 90,000 as determined by the most recent State Demographer's population estimate for the City. This subdivision is authorized by an election held on November 2, 1976, by which a majority of the voters authorized the issuance of licenses without regard to the limitations imposed by Minnesota Statutes, Section 340A.413.

Subd. 3. One-Day Consumption and Display. No more than ten such permits may be issued in any one- year.

Subd. 4. Intoxicating Liquor/Off-Sale Exclusive Liquor Store. The number of Intoxicating Liquor/Off-Sale Exclusive Liquor Store licenses shall not exceed the greater of one for each 5,000 inhabitants of the city or major fraction thereof as determined by the most recent State Demographer's population estimate issued pursuant to Minn. Stat. Section 4A.02, or such other number as shall be approved by the Minnesota legislature. (3982, 9/20/10)

Subd. 5. Intoxicating Liquor/Civic Center. No more than one such license shall be in effect at any time during any one year.

125B.06. License Applications. Subdivision 1. General Requirements. Any person desiring a license to sell alcoholic beverages in the City shall file with the City Clerk an application in writing upon a form furnished by the City Clerk's office. Except in the case of Dance Permit applications, such applications may require, as the Council shall direct, that any or all of the following information be set forth upon the said application, in addition to such further information as may be required by other provisions of this chapter.

- A. Full legal name and any aliases, date of birth, social security number, telephone number, marital status, spouse's identity, residential address(s) and occupation(s) for preceding five years, citizenship of the applicant, and the legal name, business ID#, address, character, and duration of any partnership, corporation, association or other organization on behalf of which application is being made;

- B. Full legal name, address, date of birth, telephone number, and office, title and extent of interest held for each partner in the case of an application by a partnership or for each officer in an application by a corporation or club;
- C. In the case of an application by a corporation, the date of incorporation, state of incorporation, authority for the corporation to do business in Minnesota, authorized capital, paid in capital, parent company name if a subsidiary, general corporate purpose, and copies of current articles and by-laws;
- D. In the case of an application by a club, the date of organization, number of members, membership list, membership dues, membership requirements, purpose, management structure, operation manager's identity, length of time at the proposed premises and copies of its constitution and by-laws;
- E. Nature and extent of any previous involvement of applicant or other parties listed on the application in any business of a similar nature where alcoholic beverages were dispensed;
- F. The name, address, and nature of the interest held by any person or entity other than the applicant in the premises or business proposed to be licensed; a reasonable number of business and/or banking references for the applicant;
- G. A complete description of the premises at which the applicant proposes to sell such alcoholic beverages, including the location, telephone number, actual or proposed business name, and a floor plan or detailed diagram of the premises, indicating those areas open to the public, showing dimensions, and indicating the number of persons to be served in each room or area;
- H. Information necessary to establish whether the applicant(s) or, in the case of a partnership or corporation, the partners, officers, or shareholders, all meet the eligibility requirements established in 125A.03;
- I. The name, address, and extent of interest in the establishment, of the owner of the building in which the proposed licensed premises is to be located if other than the applicant or organization on behalf of which the applicant is acting;

- J. The nature and extent of any taxes or other monies owed to the City or any other governmental agency of the state by the applicant or the organization on behalf of which application is being made;
- K. Such other information in such form and detail as is requested or required on any application form prescribed by the Department of Public Safety, Liquor Control Division, for the class of license applied for;
- L. Proof of workers' compensation coverage;
- M. In the case of an Intoxicating Liquor/Restaurant or an Intoxicating Liquor/Wine license application, the nature and extent of food to be sold on the premises. When the application is for the renewal of any such license, the applicant shall state the percentage of the total gross retail sales of the licensed establishment which were attributable to alcoholic beverage sales during the period of time since its license was last renewed or granted.
- N. The date on which the establishment will be opened for business after the issuance of the license, if such establishment is not already open at the time of the application.
- O. A business plan which shall include the following information:
 - (1) Hours of operation for the licensed premises;
 - (2) A copy of the menu;
 - (3) Description of the alcohol server awareness program training that the applicant will provide;
 - (4) Description of the type of entertainment, if any, that the applicant intends to offer on the licensed premises;
 - (5) All On-Sale Exclusive Licenses shall include with its business plan a security plan following the outline required and reviewed by the Police Department describing the security features, including personnel and equipment, that the applicant will employ and how they will be utilized. The security plan will be kept on file with the City Clerk; (4114, 6/3/13)

- (6) Description of how the applicant will maintain the orderly appearance and operation of the licensed premises with respect to litter, noise, loud music and cleanliness; and
- (7) Such other reasonable and pertinent information as the Common Council may require.

P. All business and financial information required to show the applicant possesses the required business knowledge and experience, and financial resources, to successfully and profitably operate the proposed establishment consistent with the applicant's business plan, and to do so in compliance with all state laws and city ordinances.

(4051, 2/22/12)

Subd. 2. Each application for the issuance or renewal of any intoxicating or 3.2 percent malt liquor license must include a copy of each summons received by the applicant under Minnesota Statutes §340A.802.

Subd. 3. An application for a Special Sunday license may be included on an application for an on-sale license when both applications are made at the same time.

Subd. 4. An applicant for renewal of an Intoxicating Liquor/Restaurant & Hotel license shall, when requested by the council, file with the City Clerk a statement prepared by a certified public accountant which shows the total gross sales and the total food sales of the restaurant for the 12 month period immediately preceding the date of filing the application for the license renewal.

Subd. 5. Each such application form shall be signed, verified, and sworn to by the applicant in person, and if the applicant is a corporation, by any authorized officer of the corporation, at the office of the City Clerk.

Subd. 6. Renewals. An application for renewal of an alcoholic beverage license shall require the applicant to re-verify or update all of the information contained on the original license application.

Subd. 7. Transfers. An applicant seeking to obtain approval for the transfer to it of an alcoholic beverage license which is currently held by another person or organization shall complete and furnish to the city clerk an application form as in the case of an original application for the same type and class of license. In addition, the current license holder must sign the application form indicating its approval of the transfer. No retail intoxicating

liquor license may be transferred to another person except when that person has purchased the business for which the license was issued. Purchase of the business does not require the purchase of the real property upon which the business had been located.

Subd. 8. It shall be unlawful to make any false statements on any such license application forms.

125B.07. Proof of Financial Responsibility Required. An applicant for any license issued under this Chapter, except:

- A. on-sale 3.2 percent malt liquor licensees with sales of less than \$10,000 of 3.2 percent malt liquor for the preceding year;
- B. off-sale 3.2 percent malt liquor licensees with sales of less than \$20,000 of 3.2 percent malt liquor for the preceding year;
- C. holders of on-sale wine licenses with sales of less than \$10,000 for wine for the preceding year,

shall, in addition to the information requested by Section 125B.06, file with the city clerk evidence of financial responsibility. No license issued by the council shall be effective until proof of financial responsibility is filed with the city clerk. For purposes of the requirements of this section, evidence of financial responsibility shall be established by the applicant in the manner provided in Minnesota Statutes, Section 340A.409 and by such other information as may be required to show the applicant possesses the required financial resources to successfully and profitably operate the proposed establishment consistent with the applicant's business plan, and to do so in compliance with all state laws and city ordinances. Notwithstanding any provision of this section to the contrary, any licensee authorized to dispense or to allow the consumption of intoxicating liquor or 3.2 percent malt 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 of Rochester, or any instrumentality thereof located within the City of Rochester, must provide evidence of financial responsibility in accordance with Minnesota Statutes, Section 340A.409. (4051, 2/22/12)

125B.081. Fees; Intoxicating Liquor Licenses: Subdivision 1. On-Sale Licenses. The fees for on-sale licenses shall be as follows:

A. Clubs. For clubs the license fee shall depend on the membership of said club at the time such license is issued or renewed, according to the following schedule:

(1)	200 members or less	\$300.00
-----	---------------------	----------

CHAPTER 125B. ALCOHOLIC BEVERAGES

(2)	201 to 500	500.00
(3)	501 to 1000	650.00
(4)	1001 to 2000	800.00
(5)	2001 to 4000	1000.00
(6)	4001 to 6000	2000.00
(7)	Over 6000 members	3000.00

At the time an applicant for issuance or renewal of an on-sale license for a club applies for such license or renewal, he shall provide the City Clerk with the correct membership of such club as of the date of such application.

B. Hotels, Restaurants, and On-Sale Exclusive Liquor Stores. For the sale of on-sale liquors; \$3,200.00 per year plus \$1,600.00 for each separate room or lounge area in excess of one established on the licensed premises. A licensee shall be considered to have established a separate room or lounge area on the premises when:

- (1) more than one permanent bar regularly open to the public exists on the licensed premises; and,
- (2) the permanent bars are located in areas of the premises separated from another by permanent walls, or are located on different floors of the licensed premises.

C. Civic Center License: \$3200.00 per year.

D. Wine Licenses: \$400.00 per year.

E. For purposes of this section, when portions of a single permanent bar are located in separate areas of the premises divided by a permanent wall, this shall be considered more than one bar if the rooms have each a separate entrance to the licensed premises from outside of the licensed premises; provided that additional license fees need not be paid by any holder of the Intoxicating Liquor/Civic Center license for additional or separate rooms or lounge areas within the Civic Center facility.

F. Small Brewer – Off-Sale or Brew Pub – Off-Sale Licenses: \$36.00 per year. (4169, 9/3/14; 4195, 5/18/15)

G. Brewer Tap Room or Brew Pub – On-Sale Licenses: \$300.00 per year. (4195, 5/18/15)

Subd. 2. Off-Sale. The fee for an off-sale license shall be \$400.00 per year.

(#3835, 10/15/07)

125B.082. Fees; 3.2 percent malt liquor Licenses. The fees for 3.2 percent malt liquor licenses shall be as follows:

- A. Off-sale Licenses: \$36.00 per year.
- B. On-sale Licenses: \$300.00 per year.
- C. Temporary On-Sale License: \$30.00 per license.

(4087, 10/1/12)

125B.083. Fees; Other Licenses. The fees for other licenses authorized by this chapter shall be as follows:

- A. Bottle Club Permit: \$150.00.
- B. One-Day Consumption and Display Permit: \$25.00
- C. Special Sunday License: \$200.00 per year
- D. Dance Licenses: \$200.00 per year
- E. Intoxicating Liquor/On-sale Temporary License: \$50.00

(4084, 9/6/12)

125B.084. Fees; License Transfers. The fee for the transfer of an intoxicating liquor, wine, intoxicating liquor/wine or a 3.2 percent malt liquor license is \$50 to be paid at the time the application is filed. In the event of a transfer of an intoxicating liquor or wine license for reasons other than solely a change in location, the applicant for the transfer must pay, in addition to the \$50 fee, an investigation fee provided by state law for an initial investigation of the same type for the specific class of license.

(#3855, 2/4/08)

125B.085. Fees; Payments and Adjustments. Subdivision 1. Payment of Fees. Except for on-sale intoxicating liquor licenses, each application for a license or for a renewal of a license shall be accompanied by payment in full of all fees required by this chapter. The annual license fee for on-sale intoxicating liquor licenses may be paid in semiannual installments, the first one-half thereof when said license is granted and the last one-half thereof shall be due and payable October 1st following the date of its issuance.

Subd. 2. Late Fees. A penalty of 50% of the annual license fee, but not to exceed \$300.00, shall be imposed on and collected from each applicant who files an application for renewal of a license after the

commencement of the license year.

Subd. 3. Proration of Fees. When a license is granted and a period of less than one year remains before the license expires, one-twelfth of the annual license fee shall be charged for each month or fraction of a month remaining after the license is granted and before the license expires. A refund shall be provided to any licensee upon the permanent cessation of business during the course of the license year, if so requested by licensee. The license shall be considered terminated at the time of refund. The refund will be one-twelfth of the annual license fee for each full month remaining on the license term. No refund will be provided if the cessation of business results from the City's action in suspending, revoking or taking other adverse action against the license or licensee. (3959, 3/15/10)

Subd. 4. Refunds. Upon rejection of any application, the full amount of the fee paid shall be refunded.

125B.086. Investigation Fees.

- A. Each applicant for a Wine license who does not hold at the time of such application a license, issued under this chapter, shall pay an initial, non-refundable investigation fee of \$200.00.
- B. Each applicant for an intoxicating liquor license, except a Wine license, who does not hold at the time of such application a license issued under this chapter shall pay an initial non-refundable investigation fee as follows:
 - (1) Individuals \$200.00
 - (2) Partnerships \$300.00
 - (3) Corporations \$500.00

Notwithstanding the above, the fee for an investigation which is required to be conducted in whole or in part outside of the State of Minnesota shall be the greater of the fee listed above or the actual cost of the investigation, up to a maximum of \$10,000.

- C. If the applicant is not issued a license for the license year for which the initial application was made, the application may be resubmitted each year for two successive license years by payment of an additional investigation fee of \$50.00 for each year that the application is resubmitted.

125B.10. Investigation of Applicant. Subdivision 1. Each application received shall be referred by the city clerk to the Chief of Police, the local building official, the fire chief, and the director of the consolidated planning department for investigation and comment. Each such official shall conduct such investigation as the official deems necessary to determine whether the statements contained in the application accurately reflect the facts as discovered in the investigation, and whether or to what extent the proposed premises or the applicant appears to have violated any laws or regulations for which the agency has enforcement responsibility. In the case of intoxicating liquor licenses, the city clerk shall also cause an independent investigation to be performed to verify that the applicant meets the eligibility requirements contained in 125B.03.

Subd. 2. All applications with reports and recommendations, if any, attached thereto, shall be returned by the investigating department or agency to the city clerk and shall thereafter be presented by the city clerk to the council.

125B.11. Approval and Issuance. Subdivision 1. Completion of Application. An application for an alcoholic beverage license shall be deemed completed when the application form has been fully completed, the investigation fee has been paid, and the investigation report submitted to the city clerk.

Subd. 2. Council Action. At the first meeting of the Council following completion of the application for an alcoholic beverage license, the city clerk shall present the same to the council for its consideration. The council, if it deems the applicant a proper and suitable one to be granted the license applied for, shall by motion grant said license and direct the mayor and city clerk to sign and issue said license to the applicant.

Subd. 3. No license shall be effective until:

- A. the license has been signed by the mayor and city clerk;
- B. all approvals required by the commissioner have been obtained by the applicant and documentation of the approvals has been provided to the city clerk;
- C. in the case of intoxicating liquor/off-sale, wine, intoxicating liquor/club, intoxicating liquor/on-sale temporary, bottle club and temporary bottle club, the approval of the commissioner has been endorsed on the license;
- D. in the case of intoxicating liquor licenses or bottle club licenses, the applicant has paid in full all taxes and other

monies owed to the city or to any other governmental subdivision or agency of the state;

- E. in the case of an establishment which is not open for business at the time of the approval of the license by the council, the establishment shall open for business within 90 days of the opening date specified in the license application. One 90 day extension of this deadline may be granted by the City Clerk, if requested in writing with the initial 90 days. The City Clerk shall grant an extension only if progress towards opening of an establishment has been demonstrated. If the establishment does not open within the prescribed time, including a City Clerk granted extension if applicable, the approval previously granted shall be deemed rescinded and re- application shall be required. (4367, 3/4/19)
- F. a certificate of occupancy from the local building official has been issued and is in effect for the licensed premises; and,
- G. all permits, if any, required under the laws of the United States have been issued to the licensee.
- H. proof of financial responsibility has been filed with the city clerk.

Subd. 4. In the case of an application for renewal of an alcoholic beverage license, the council may condition the renewal of such license upon the license holder performing or forbearing from performing certain acts within a given period of time which acts or forbearance to act would have the effect of bringing the license holder or the licensed premises into fuller compliance with the requirements of this ordinance.

Subd. 5. Within 10 days of the issuance of an intoxicating liquor license, the city clerk shall notify the commissioner of the licensee's name, address, and trade name, and of the effective date and the expiration date of the license.

Subd. 6. Each license issued pursuant to this chapter shall expire by operation of law if the licensee fails to use the license for its intended purpose for 365 consecutive days. The City Clerk must give notice to the public and to the licensee if a license expires pursuant to this subdivision. The 11th day following the date of the City Clerk's notice will constitute the date the license expires. A licensee who contests the applicability of this subdivision to his or her license may appeal the City Clerk's notice to the City Council pursuant to Section 125B.27 subd. 3. The licensee must file his or her appeal with the City Clerk within ten days of receipt of the City Clerk's

notice. The filing of an appeal stays the expiration of the license until the Council enters its Order resolving the appeal.

125B.12. Duration. Subdivision 1. Except as otherwise provided in this section or by the Liquor Act, each license shall be issued for a period of one year and shall expire at 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, on the first day of April following the date of the issuance, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the license year.

Subd. 2. Each 3.2 percent malt liquor/On-Sale Temporary license shall be issued for a term not-to-exceed ten consecutive days.

Subd. 3. Each One-Day Consumption and Display license shall authorize sales only for the day indicated on the permit.

Subd. 4. Each Intoxicating Liquor/On-Sale Temporary license shall be issued for a term not to exceed four consecutive days and shall authorize sales only on the days indicated on the license.

125B.13. Ownership and Transfers. Subdivision 1. Approval of Transfers. No license granted hereunder shall be transferable from person to person or to other premises without the consent of the council which shall be evidenced by motion passed by the council. Any change of a licensee's form of ownership and any change of ownership or beneficial interest in 25% or more of the shares of stock in a corporate licensee shall be deemed equivalent to a transfer of the license and the same shall not become effective until approved by the council.

Subd. 2. Reports Required. Each corporate licensee shall report to the city clerk any proposed change of legal ownership or beneficial ownership in the corporate stock. The report shall be in writing and shall list all stockholders, their age, occupation, residential address, the number of shares held by each, and whether the shares are held individually or for the benefit of others. The report shall include all powers of attorney for proxies granted that relate to the voting of the corporate share of stock.

Subd. 3. Examination of Records. The council or any other officer designated by the council may at any reasonable hour examine the stock, transfer records, minute books and other business records of a corporate licensee for the purpose of determining the extent of interest of any and all persons in the corporate licensee, the ownership and voting of shares of stock of the corporation, and to determine the extent of interest of any and all persons in the corporate licenses, the ownership and voting shares of

stock of the corporation, and to determine whether any change of the legal ownership of or beneficial interest in certain shares of stock has directly or indirectly resulted in multiple ownership or in a change of control of the licensee.

Subd. 4. License extension; death of licensee. In the case of the death of a retail licensee licensed to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee.

125B.14. License Posting. A retail license to sell alcoholic beverages must be posted in a conspicuous place in the premises for which it is used.

125B.15. Premises Limited. No license shall be effective beyond the compact and contiguous space named therein for which the same was granted, except that a licensee operating under an on-sale license or Special Sunday license granted for sales in the dining room of a hotel, restaurant, or club, or a Wine license may permit sales of liquor with meals in additional dining rooms open to the public and specified on the license where meals are regularly served to guests therein. All licenses granted hereunder shall set forth the exact location within the building structure where such sales may be made and no sales shall be permitted except in that part of the premises defined in the license.

125B.16. Compliance with Other Codes. The structure within which alcoholic beverages are to be sold as authorized by this chapter shall at all times be in compliance with current building, fire, zoning, and other safety codes.

125B.17. Location Restricted. No license shall be issued for premises located within the areas restricted against commercial use by the zoning ordinances of the city or other proceedings or legal processes regularly had for that purpose; and no license shall be issued contrary to the provisions of the charter or ordinances of the city or any special or general laws of the State of Minnesota restricting areas within which alcoholic beverages may be sold.

125B.18. Inspections. All licensed premises shall be open to inspection by any police or health officer or any other properly designated officer or employee of the City without the need for a search warrant at any time during which the licensed premises or any portion thereof shall be open to the public or to the licensee's members for business, or at any other time customers are permitted to be present therein.

125B.19. Dancing Restricted. Dancing shall be permitted only on

licensed premises for which a dancing license has been granted by the Council.

125B.20. Gambling and Certain Conduct. Except as provided by State law or a gambling license issued by the State of Minnesota Charitable Gambling Control Board, no licensee shall keep, possess or operate, or permit the keeping, possession, or operation of, on any licensed premises or in any room adjoining the licensed premises, any slot machines, dice, or other gambling device or equipment, nor permit any gambling therein.

125B.21. Hours and Days of Sale and Consumption. Subdivision 1. 3.2 percent malt liquor. No sale of 3.2 percent malt liquor may be made between 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, and 8:00 a.m. on the following day. No on-sale licensee shall permit any person to consume any 3.2 percent malt liquor on the premises except within the hours when the sale of such 3.2 percent malt liquor is permitted and for a period of one and one-half hours later; no person shall consume any 3.2 percent malt liquor on the licensee's premises except within the hours when the sale of such malt liquor is permitted or within the period of one and one-half hours after said sales are permitted. (4195, 5/18/15)

Subd. 2. Intoxicating liquor; on-sale. No sale of intoxicating liquor for consumption on the licensed premises may be made between 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, and 8:00 a.m. the following morning. (4195, 5/18/15)

Subd. 3. Intoxicating liquor; Sunday sales; on-sale. A restaurant, club, or hotel with a seating capacity for at least 15 persons and which holds a Special Sunday license or a Wine licensee may sell intoxicating liquor or wine, as their alcoholic beverage license otherwise permits, for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, on Mondays. Brewers holding a Brew Pub – On-Sale or Brewer Tap Room licenses may sell malt liquor for consumption on the premises between the hours of 8:00 a.m. on Sundays and 1:00 a.m., or 2:00 a.m. if licensee has obtained state approval of extended closing period, on Monday. (4195, 5/18/15)

Subd. 4. Intoxicating liquor; consumption; On-Sale. No on sale intoxicating liquor licensee shall permit any person to consume any alcoholic beverage or to remain on its premises more than one and one-half hours after the time sales are permitted under this section. However, a licensee's regular employee may be on said premises outside of the time set forth herein.

Subd. 5. Intoxicating liquor; off-sale. This section repealed per Ordinance #4305 on June 5, 2017. (4195, 5/18/15; 4211, 9/21/15; 4213, 9/28/15; 4305, 6/5/17)

Subd. 7. No Bottle Club or One-Day Consumption and Display licensee may permit any person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor on the licensed premises, between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Subd. 8. In the case of an Intoxicating Liquor/Civic Center license holder, the Park and Recreation Board of the City may prescribe more restrictive time limitations on the sale of alcoholic beverages than those otherwise indicated in this section.

Subd. 9. Notwithstanding any provision of this Chapter to the contrary, no licensee may sell intoxicating liquor or 3.2 percent malt liquor between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the Minnesota Commissioner of Public Safety authorizing sales during such times.
(3671, 10/4/04; 3738, 11/7/05; 3792, 10/16/06; 3986, 10/18/10)

125B.22. Intoxicating Liquor Prohibited. No licensee who is not also licensed to sell intoxicating liquor shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this section.

125B.23. Unlawful Acts. Subdivision 1. Except as otherwise authorized by the Minnesota Liquor Act in the case of parents or guardians, no alcoholic beverage shall be sold or furnished for any purpose whatsoever to any person under 21 years of age or to a habitual drunkard or to anyone obviously intoxicated or to any person to whom such sales are prohibited by any law of this state or by this chapter.

Subd. 2. No person under the age of 21 years shall enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage.

Subd. 3. No licensee shall permit any person under the age of 21 years to consume any alcoholic beverage on the licensed premises.

Subd. 4. No person, regardless of age, shall consume or possess any alcoholic beverages or shall sell, barter, exchange, procure, give or provide to another any alcoholic beverages, on a licensed premises during the time when the licensee is operating the premises as alcohol free as provided in Section 125B.24, subd. 2(E) of this chapter.

Subd. 5. No sale shall be made in any place or in any part of the building where such sales are prohibited by state law or by this chapter.

Subd. 6. No person shall misrepresent his or her age to any licensee hereunder for the purpose of inducing a sale of an alcoholic beverage in violation of this chapter.

Subd. 7. No person shall possess in any public place an alcoholic beverage which is opened or the seal of which is broken, except in public parks as provided for in section 45B.17, unless such place is licensed hereunder, or unless a person using the premises has been issued a permit by the commission to serve liquid for the purpose of mixing with such alcoholic beverage. (4068, 6/4/12)

Subd. 8. No person 18, 19 or 20 years old may enter a premises licensed for the sale of intoxicating liquor as an Intoxicating Liquor/On-Sale Exclusive Liquor Store except for the purpose of:

- A. Performing work for the premises, including the serving of intoxicating liquor, unless otherwise prohibited by Minnesota Statutes, Section 340A.412, subd. 10;
- B. Consuming meals;
- C. Attending social functions that are held in a portion of the establishment where liquor is not sold; or
- D. Entering the premises under the circumstances under which a minor may enter the premises as provided in section 125B.24, subd. 2.

(3986, 10/18/10)

Subd. 9. No licensee may allow another person under the age of 21 to enter the licensed premises except as permitted by this section or section 125B.24.

Subd. 10. No person shall enter or attempt to enter a premises licensed for the sale of intoxicating liquor without having in their possession valid identification. For purposes of this subdivision, the term "valid

identification” means:

- A. 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 license person;
- B. A valid military identification card issued by the United States Department of Defense;
- C. A valid passport issued by the United States;
- D. A valid instructional permit issued under Minn. Stat. section 171.05 to a person of legal age to purchase alcohol which includes a photograph and date of birth of the person issued the permit; or
- E. In the case of a foreign national, by a valid passport.
(4195, 5/18/15)

Subd. 11. No person shall serve intoxicating liquor under the authority of Section 125B.041 without first providing notice of the event and proof of liability insurance to the City Clerk not less than seven days prior to the event.

(3958, 3/1/10; 3986, 10/18/10; 4031, 9/19/11; 4035, 10/17/11; 4039, 11/7/11)

125B.24. Minors; Presence on Licensed Premises. Subdivision 1. Except as otherwise provided in this section, no minor shall be allowed in any premises licensed for the sale of intoxicating liquor.

Subd. 2. A minor is permitted in a premises licensed for the sale of intoxicating liquor under the following circumstances:

- A. prior to 10:00 p.m. if accompanied by a parent or guardian; or,
- B. to consume food, but not alcoholic beverages, in a restaurant or hotel licensed for the sale of intoxicating liquor; or,
- C. when employed as a musician or in the bussing or washing of dishes in and for a restaurant or hotel that is licensed to sell intoxicating liquor, or when employed as a waiter or waitress at a restaurant, hotel, or motel where only wine is sold, provided that the person who is under the age of 18 years may not serve or sell any wine; or
- D. notwithstanding the above, to attend any convention, banquet,

conference, meeting, athletic event or social affair conducted on the premises of the Civic Center, the Peace Plaza (as the latter term is defined by section 45D.01) or a Community Festival (as the latter term is defined by section 125B.041, subd. 1).

(3875, 6/16/08; 3927, 7/6/09)

- E. during an alcohol free time period in any licensed premises, or in that portion of a licensed premises which is separated from the remainder of the premises and for which the licensee has paid to have more than one bar, where the licensee has determined not to sell or permit the consumption of intoxicating liquor on the premises or the designated portion thereof during a particular time period and has determined to operate the licensed premises or portion thereof as alcohol free during such period, provided that the licensee complies with the following conditions:
- (1) the licensee shall give written notice of the intention to operate an alcohol free period at least forty-eight hours in advance to the chief of police, which notice shall designate the portion of the premises to be used for the alcohol free period and shall indicate whether intoxicating liquor will be sold at any portion thereof; and,
 - (2) the licensee shall post conspicuously at all entrances to the premises or portion thereof to be used during the said alcohol free period a notice stating that the sale and consumption of alcoholic beverages will not be permitted during the duration of said period, and shall also state that the participants are not allowed into any portion of the licensed premises where intoxicating liquor is sold; and,
 - (3) during the alcohol free period of operation, the licensee shall remove from public view and secure on the premises to be used for the alcohol free event, all containers of alcoholic beverages in that portion of the premises, and inactivate any devices which dispense alcoholic beverages therein; and,
 - (4) the licensee shall provide security measures within the portion of the licensed premises to be used for the alcohol free period to prevent the consumption

of alcoholic beverages by persons on the premises for the alcohol free period; and,

- (5) the licensed premises must be so designed that there is a physical barrier between the portion of the premises used for the alcohol free period and other portions of the premises, and the licensee shall provide security measures to separate the guests attending the alcohol free period from any portion of the premises where intoxicating liquor is served, and from persons using the portion of the premises where intoxicating liquor is being served.

125B.26. Conduct of Business; Prohibition Against Smoking.

Subdivision 1. Every licensee shall be responsible for the manner in which the alcoholic beverage establishment operates including the level of noise or music originating from the establishment. Every licensee must maintain conditions of sobriety and order upon the establishment.

Subd. 2a. Smoking shall not be permitted and no person shall smoke in or upon the licensed premises.

Subd. 2b. Every licensee shall make reasonable efforts to prevent smoking in or upon the licensed premises by: (a) posting appropriate signs or by any other means which may be appropriate; and, (b) asking any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, asking the person to leave. If the person refuses to leave, the licensee shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.

Subd. 2c. The licensee must not provide smoking equipment, including ashtrays or matches, in or upon the licensed premises. The licensee may not serve a person who is in violation of subdivision 2a.

Subd. 2d. The term "smoking" means inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product. Smoking also includes carrying a lighted cigar, cigarette, pipe, electronic cigarette, personal vaporizer, electric nicotine delivery system, or other lighted tobacco or plant product intended for inhalation.

Subd. 2e. The term "licensed premises" means the premises described in the approved license application as well as those entrances, exits, open windows and ventilation intakes within 15 feet of the described premises.

(3900, 12/1/08; 4018, 5/2/11)

125B.27. License Sanctions. Subdivision 1. Any license or permit issued by the City pursuant to the provisions of this chapter may be suspended, revoked or placed on probation upon a finding that the licensee or permit holder, during the term of the license or in connection with the application, transfer or renewal of such license:

- A. Failed to comply with any applicable statute, rule or ordinance relating to alcoholic beverage;
- B. Violated section 85.10;
- C. Violated any provision of chapter 117;
- D. Failed to comply with any condition set forth in the license, set forth in a council action regarding the license or set forth as part of the placement of the license on probation; or
- E. Allowed the licensed business to be operated or maintained in a way that unreasonably annoyed, endangered or injured the safety, health, morals, comfort or repose of any considerable number of members of the public.

(3761, 4/17/06; 3810, 3/19/07; 3900, 12/1/08)

Subd. 2. In the case of an intoxicating liquor/civic center license, the expiration or other termination of the license holder's contract with the city to provide concession services at the civic center also constitutes grounds for revocation of the license.

Subd. 3. Whenever it appears to the council that adequate grounds may exist for the suspension, revocation or imposition of probation of a specific alcoholic beverage license, the council shall by resolution specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.

Subd. 4. No such suspension, revocation or probation shall be effective until the license or permit holder has been afforded an opportunity for a hearing after reasonable notice. The notice shall state the time, place and issues to be addressed. All parties will be afforded an opportunity at the hearing to present evidence and argument concerning the issues.

Subd. 5. Upon a finding that the licensee or permit holder has violated any such statute, rule or ordinance, the council may:

- A. Suspend the license or permit for up to 60 days;

- B. Revoke the license or permit;
- C. Impose a civil fine not to exceed \$2,000 for each violation found as a result of the hearing; or
- D. Place the license or permit on probation for a stated time period. The council may impose conditions upon the license or permit during the time of probation.

Subd. 6. A license issued pursuant to this chapter may be summarily suspended by the council if the licensee fails to maintain financial responsibility in the manner required by Minnesota Statutes, Section 340A.409.

Subd. 7. The city clerk shall inform the commissioner of any intoxicating liquor license transfer, cancellation, suspension, or revocation during the license period. (3900,12/1/08)

125B.28. Penalties. Subdivision 1. Any person violating any provision of this chapter shall be guilty of a misdemeanor.

Subd. 2. In addition to all penalties and remedies provided by law, any violation of this chapter is hereby declared to be a nuisance. The repeated or continued violation of this chapter is hereby declared to constitute a public nuisance that affects public rights or privileges, or endangers public health. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the repeated or continued violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction, preliminary injunction or permanent injunction. (3886, 9/15/08)

(645, 11/18/46; 721, 12/5/49; 968, 8/5/57; 971, 10/7/57; 1103, 1/3/61; 1196, 3/4/63; 1197, 3/4/63; 1291, 12/7/64; 1437, 2/19/68; 1568, 10/5/70; 1570, 10/19/70; 1582, 2/1/71; 1594, 5/17/71; 1615, 9/20/71; 1633, 2/8/72; 1653, 5/2/72; 1676, 11/7/72; 1677, 11/7/72; 1691, 2/21/73; 1697, 4/17/73; 1702, 5/30/73; 1726, 9/5/73; 1759, 3/18/74; 1771, 7/1/74; 1798, 2/18/75; 1817, 8/18/75; 1820, 10/6/75; 1834, 3/15/76; 1887, 3/7/77; 1941, 3/13/78; 1988, 9/5/78; 2006, 1/3/79; 2009, 1/3/79; 2021, 2/5/79; 2038, 4/16/79; 2050, 6/4/79; 2062, 8/21/79; 2068, 9/5/79; 2171, 3/10/81; 2235, 1/31/82; 2265, 10/30/82; 2266, 10/30/82; 2284, 2/23/83; 2297, 5/2/83; 2315, 7/19/83; 2329, 10/17/83; 2350, 1/17/84; 2351, 1/30/84; 2424, 3/4/85; 2427, 3/19/85; 2456, 7/1/85; 2467, 9/17/85; 2476, 11/5/85; 2480, 11/19/85; 2488, 1/7/86; 2498, 3/3/86; 2518, 7/22/86; 2540, 2/18/87; 2546, 5/4/87; 2558, 8/1/87; 2649, 9/6/89; 2656, 11/7/89; 2746, 6/4/91; 2760, 9/4/91; 2770, 10/7/91; 2790, 1/22/92; 2792, 2/19/92; 2802, 4/7/92; 2815, 5/19/92; 2816, 5/19/92; 2817, 5/19/92; 2841, 9/9/92; 2866, 3/2/93; 2871, 4/6/93; 2878, 5/18/93; 2927, 2/8/94; 2941, 6/7/94; 2979, 4/4/95; 2984,

CHAPTER 125B. ALCOHOLIC BEVERAGES

4/18/94; 2989, 5/2/95; 2991, 5/16/95; 3154, 3/2/98; 3163, 4/21/98; 3309, 2/24/2000; 3491, 6/17/02; 3517, 10/7/02; 3543, 3/17/03; 3586, 8/18/03; 3602, 10/20/03; 3644, 5/17/04; 3671, 10/4/04; 3738, 11/7/05; 3792, 10/16/06; 3761, 4/17/06; 3810, 3/19/07; 3833, 9/17/07; 3837, 10/15/07; 3839, 11/5/07; 3844, 11/19/07; 3855, 2/4/08; 3863, 5/5/08; 3875, 6/16/08; 3883, 9/3/08; 3886, 9/15/08; 3900, 12/1/08; 3926, 7/6/09; 3927, 7/6/09; 3932, 7/20/09; 3958, 3/1/10; 3959, 3/15/10; 3982, 9/20/10; 3986, 10/18/10; 4017, 5/2/11; 4018, 5/2/11; 4031, 9/19/11; 4035, 10/17/11; 4039, 11/7/11; 4041, 12/5/11; 4051, 2/22/12; 4054, 3/5/12; 4068, 6/4/12; 4084, 9/6/12, 4087, 10/1/12; 4114, 6/3/13; 4126, 9/4/13; 4146, 2/3/14; 4169, 9/3/14; 4174, 11/17/14; 4195, 5/18/15; 4211, 9/21/15; 4213, 9/28/15; 4305, 6/5/17; 4367, 3/4/19)