

## 1002. INTOXICATING LIQUOR

§1002.010 INTOXICATING LIQUOR; DEFINITIONS. For the purpose of this chapter, certain words and terms are defined as follows:

Subd. 1 Club. Any corporation duly organized under the laws of the state for civic, fraternal, social, or business purposes or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which shall have more than fifty (50) members, and which shall, for more than a year, have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

Subd. 2 Commissioner. The Commissioner of Public Safety.

Subd. 3 Hotel. Any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, which maintains for the use of its guests not less than twenty-five (25) guest rooms with bedding and other usual, suitable, and necessary furnishings in each room, which is provided at the main entrance with a suitable lobby, desk and office for the registration of its guests on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating not less than thirty (30) guests at one (1) time, where the general public are, in consideration of payment therefore, served with meals at tables.

Subd. 4 Intoxicating Liquor or Liquor. Ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing an excess of three and two-tenths (3.2%) percent of alcohol by weight.

Subd. 5 Medicine. Any such potable liquids as prescribed by licensed physicians and dentists for therapeutic purposes, and United States pharmacopoeia and national formulary preparations, and preparations used for the mitigation of disease for external and internal purposes which are usually sold in drug stores and intended for therapeutic purposes and not for beverage purposes.

Subd. 6 "Off-Sale." The sale of liquor in original packages in retail stores for consumption off or away from the premises where sold.

Subd. 7 "On-Sale." The sale of liquor by the glass or by the drink for consumption on the premises only pursuant to such regulations as the Commissioner may prescribe.

Subd. 8 Original Package (also Package). Any container or receptacle holding liquor, which container or receptacle is corked or sealed.

Subd. 9 Restaurant. Any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where, in consideration of payment therefore, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable services to its guests. Such establishment shall have facilities for seating not less than twenty-five (25) guests at one (1) time. (Ref. Ord. 08-05-1050, 5/27/08)

Subd. 10 Sale, Sell, Sold. All barbers and all manners or means of furnishing intoxicating liquor including such furnishing in violation or evasion of law. (Ref. §802.010, Code 1966)

Subd. 11 Lawful Gambling Devices. Paddle wheels, pull-tabs, ticket jars and tip boards, as defined in Article XI, Chapter 1111, Section 1111.020 of the Municipal Code. (Ref. Ord. 736, 12/9/86)

Subd. 12 Employee. A person who is currently under the employment of the licensee and is at that time on duty or scheduled to perform labor or services and who shall be paid for said labor and services. (Ref. Ord. 736, 12/9/86)

Subd. 13 Liquor Lounge. Any establishment other than a hotel or restaurant, open to the general public, licensed for the "on-sale" distribution of intoxicating liquor and employs an adequate staff to provide the usual and suitable services to its guests. Such establishment shall have facilities for seating not less than thirty (30) guests at one (1) time. (Ref. Ord. 802, 3/1/90)

Subd. 14 Brewer Taproom. Licenses shall permit the licensee to engage in on-sale of malt liquor produced by the brewer licensee for consumption on the premises of or adjacent to one brewery location owned by the brewer. (Ref. Ord. 12-06-1081, 6/26/12)

§1002.020 INTOXICATING LIQUOR; LICENSE REQUIRED. No person shall sell intoxicating liquor for consumption at any time or place within the City without a license. (Ref. §802.020, Code 1966)

§1002.030 INTOXICATING LIQUOR; LICENSE APPLICATION, FEE. Any person desiring a license to sell intoxicating liquor shall make his verified application in writing to the Council upon a form prepared by the City Clerk and approved by the Commissioner of Public Safety of the State of Minnesota, and shall file the same with the Clerk and with the amount of a license fee herein fixed for the particular license for which he makes application.

Upon receipt of the application and the proper amount of the license fee the Clerk shall give the applicant a receipt stating the purpose for which the deposit is made. The Clerk shall refer the application to the Council.

Upon application for a new license or transfer of an existing license, a minimum fee of two hundred (200.00) dollars will be charged. An investigation fee set by City Council resolution and not to exceed five hundred (500.00) dollars will be charged an applicant by the City if the investigation is conducted within the State. The actual cost, not to exceed ten thousand (10,000.00) dollars will be charged an applicant by the City if the investigation is required outside the State. (Ref. §802.030, Code 1966; Ord. No. 601, 11/8/77; 1015, 1/13/04)

§1002.040 INTOXICATING LIQUOR; LICENSE DECISION. After due consideration, the City Council shall grant or deny the license. (Ref. §802.040, Code 1966)

§1002.050 INTOXICATING LIQUOR; PERSONS INELIGIBLE FOR LICENSE. No license shall be issued to any person:

1. Twenty (20) years of age or under. (Ref. §802.050, Code 1966; Ord. Nos. 555, 7/10/73; 563, 9/17/74; Ord. No. 802, 3/1/90)

§1002.060 INTOXICATING LIQUOR; LICENSE RESTRICTIONS. Not more than one (1) retailer's license shall be directly or indirectly issued to for any one (1) place in the City nor shall any retailer's "on-sale" or "off-sale" license be issued for any place for which a license of another class has been granted. (Ref. Ord. 1021, 6/8/04)

No "off-sale" license shall be issued for any place where non-intoxicating malt beverages shall be sold for consumption on the premises. No "off-sale" or "on-sale" license shall be granted when the business is to be conducted on premises upon which taxes, assessments or any financial claims of the City are unpaid or delinquent, and licenses may be revoked at any time taxes or assessments become delinquent or financial claims of the City are unpaid.

Sale and consumption of intoxicating liquors on premises with an "on-sale" license is limited to within the building at the address designated on the license, unless the license specifically grants, permission for sale and consumption on the premises, but outside of the building at the address designated on the license. (Ref. §802.060, 802.070, Code 1966; Ord. No. 637,1/8/80; Ord. No. 08-05-1050, 5/27/08)

The sale of malt liquor under a Brewer Taproom license shall be subject to all provisions and limits set forth in Minnesota statutes Chapter 340A.301. (Ref. Ord. No. 12-06-1081, 6/26/12)

§1002.070 INTOXICATING LIQUOR; TRANSFER OF LICENSE. No license shall be transferable from person to person or from place to place without the consent of the City Council, which consent shall be evidenced by resolution passed by the Council. No license granted for a specified part of any particular premises shall permit sales of such liquor on a part of such premises not specified in the license; provided, however, that the Council may, by resolution, grant the right to use such other portions of the premises for such sales.

The transfer of stock in any corporate licensee shall be deemed a transfer within the meaning of this section, and no such transfer of stock shall be made without the consent of the Council. The transfer of any stock without the knowledge and consent of the Council shall be cause for revocation by the Council of any license granted to such corporation under the authority of this chapter. (Ref. §802.080, Code 1966)

§1002.080 Section Deleted (Ref. Ord. 799, 12/12/89)

§1002.090 INTOXICATING LIQUOR; LICENSE FEES. License fees for sale of intoxicating liquor shall be set by City Council resolution.

(Ref. §802.100, Code 1966; Ord. Nos. 445, 8/17/67; 570, 2/11/75; 576, 8/12/75; 601, 11/8/77; 647, 1/13/81; 736, 12/9/86; 967, 1/13/99; 1015, 1/13/04)

§1002.100 Section Deleted (Ref. Ord 967, 1/12/99)

§1002.110 INTOXICATING LIQUOR; LICENSE CONDITIONS. All licensees are required to observe the following regulations; provided, however, that any such regulation which specifically refers to an "on-sale" licensee shall not bind an "off-sale" licensee nor shall any regulation which specifically refers to an "off-sale" licensee bind an "on-sale" licensee:

1. No liquor shall be sold or furnished for any purpose whatever to any person under twenty-one (21) years of age, or to a habitual drunkard or to one obviously intoxicated or to any person to whom sale is prohibited by the law of this state, or by reason of sale to whom a penalty is provided by the state, nor shall any person under twenty-one (21) years of age receive delivery of such liquor. (Ref. Ord. No. 802, 3/1/90)

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

3. No person under eighteen (18) years of age may be employed in a place where intoxicating liquor is sold for consumption on the premises, except that persons under eighteen (18) years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell intoxicating liquor, provided that the person under the age of eighteen (18) years may not serve patrons, and may be employed as waiters or waitresses at a restaurant or hotel where only wine is sold, provided that the person under the age of eighteen (18) years may not serve or sell any wine. (Ref. Ord. No. 702, 3/1/90)

4. Every licensee shall be responsible for the conduct of his place of business, and for conditions of sobriety and order therein.

Revised 1/13/99

5. No licensee shall keep, possess or operate, or permit the keeping, possession or operation of any slot machine, dice or any gambling device or apparatus, on the licensed premises or in any room adjoining the licensed premises and he shall not permit any gambling therein, except that gambling devices may be kept or operated and raffles conducted on premises licensed as clubs and their adjoining rooms when such activities are licensed by the State except that lawful gambling devices may be operated or sold on licensed premises when such activity is licensed by the State pursuant to Minnesota Statutes, Chapter 349, and conducted pursuant to the regulations contained in this Municipal Code. This exception shall not apply to establishments licensed by the City for the sale of nonintoxicating malt beverages, nonintoxicating malt beverages and wine, and nonintoxicating malt beverages and wine as menu items only. (Ref. Ord. 736, 12/9/86)

Notwithstanding other provisions of this Municipal Code to the contrary, the Council may permit an "on-sale" licensee to permit the holding of a single event, such as a banquet, that includes the sale of raffle tickets as a part of the event activity, provided that such events are separate from the public areas of the licensed establishment, not open to the general public and the raffle is conducted by a charitable organization licensed by the State of Minnesota. (Ref. Ord. 736, 12/9/86)

6. No licensee shall permit the licensed premises or any room in those premises or any adjoining building directly or indirectly under his control to be used as a resort for prostitutes or other disorderly persons.

7. No person holding an "on-sale" license shall permit any person under the age of twenty-one (21) years of age to loiter or remain in the room where intoxicating liquor is being served or sold unless accompanied by his parent or legal guardian. This restriction shall not apply to a restaurant as defined herein. (Ref. Ord. No. 802, 3/1/90)

8. The license issued to each licensee shall be posted in a conspicuous place in that portion of the premises for which the license has been issued. (Ref. §802.120, Code 1966; Ord. No. 555, 7/10/73)

**§1002.120 INTOXICATING LIQUOR; HOURS AND DAYS OF SALE.** The hours for the sale of intoxicating liquor shall be set by Minnesota Statutes subject to the City of White Bear Lake Charter and supplementary ordinances.

1. No "on-sale" licensee shall sell intoxicating liquor between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor after 2:00 a.m. on Sundays, except as provided by Minnesota Statutes 340A.504, Subd. 3. (Ref Ord. 1008, 8/12/03)
2. No "on-sale" licensee shall permit any person on his premises after two-thirty (2:30) o'clock a.m. except employees (Ref. §802.120, Code 1966; Ord. Nos. 445, 8/17/67; 529, 5/9/72; 621, 9/19/78; 676, 7/10/84; 1008, 8/12/03).

**§1002.130 INTOXICATING LIQUOR; ACTS OF AGENTS.** Acts of clerks, barkeepers, agents, servants or employees, which violate this chapter, are deemed to be the acts of the employer and licensee as well as the acts of themselves and such employer and licensee shall be equally liable for violations of this chapter. Any sale of intoxicating liquor by any clerk, barkeeper, agent, servant or employee made in or from any place licensed to sell nonintoxicating malt liquor but not licensed to sell intoxicating liquor shall be deemed the act of the employer and licensee, as well as that of the person actually making the sale, and every such employer and licensee of such place shall be liable to all the penalties provided in this chapter for such sale, equally with the person actually making

the sale. (Ref. §802.140, Code 1966)

§1002.140 INTOXICATING LIQUOR; MINORS. It shall be unlawful for any:

1. Person under the age of twenty-one (21) years to enter any premises licensed for the retail sale of alcoholic beverages or any municipal liquor store for the purpose of purchasing, or having served or delivered to him or her, any alcoholic beverage containing more than one-half (1/2) of one (1%) percent of alcohol by volume. (Ref. Ord. No. 802, 3/1/90)

2. Person under the age of twenty-one (21) years to consume any intoxicating liquor or to purchase, attempt to purchase or have another purchase for him or her any intoxicating liquor. (Ref. Ord. No. 802, 3/1/90)

3. Person to misrepresent or misstate his or her age, or the age of any other person for the purpose of inducing any licensee or any employee of any licensee, or any employee of any

municipal liquor store, to sell, serve or deliver any alcoholic beverage to a person under the age of twenty-one (21) years. (Ref. Ord. No. 802, 3/1/90)

4. Person under the age of twenty-one (21) years to have in his possession any intoxicating liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such intoxicating liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian. (Ref §802.150, Code 1966; Ref. Ord. No. 802, 3/1/90)

§1002.150 INTOXICATING LIQUOR; PROHIBITED SALES. It shall be unlawful for any person, except a licensed pharmacist, to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose whatever, to any person under the age of twenty-one (21) years or to any intoxicated person or to any public prostitute. (Ref. Ord. No. 802, 3/1/90)

It shall be unlawful for any person, except a licensed pharmacist, to sell, give, barter, furnish or dispose of, in any manner, either directly or indirectly, any spirituous, vinous, malt or fermented liquors in any quantity, for any purpose whatever, to any spendthrift, habitual drunkard or improvident person within one (1) year after written notice not to do so has been served on him by any law enforcement officer, parent, guardian, master, employer, relative or by any person annoyed or injured by the intoxication of such spendthrift, habitual drunkard or improvident person.

Any person who shall in any way procure liquors for the use of any person named in this section shall be deemed to have made a sale to such person. (Ref. §802.160, Code 1966; Ord. No. 578, 9/9/75)

§1002.160 INTOXICATING LIQUOR; LICENSE EXPIRATION. Each license granted under this Chapter, shall expire on the March Thirty-First (31st) next following its issuance. (Ref. §802.170, Code 1966)

§1002.170 INTOXICATING LIQUORS; REVOCATION OF LICENSE. Any license granted hereunder may either be suspended for a time not to exceed sixty (60) days or revoked upon a finding that the licensee has failed to comply with any applicable statutes, regulation or ordinance relating to intoxicating liquor. (Ref. §802.180, Code 1966)

§1002.180 INTOXICATING LIQUORS; SPECIAL LICENSES; SUNDAY ON-SALE, ON-SALE WINE.

Subd. 1. Sunday On-Sale Licenses. Special "on-sale" licenses for the sale of intoxicating liquor on Sunday may be issued to hotels, restaurants or clubs, as defined in section 1002.010, to which "on-sale" licenses have been issued or hereafter may be issued for the sale of intoxicating liquors; provided, said hotels, restaurants or clubs have facilities for serving not less than thirty (30) guests at one (1) time. Such special Sunday "on-sale" licenses shall allow the qualifying establishments to serve intoxicating liquors during the hours allowed as set by Minnesota Statutes subject to the City of White Bear Lake Charter and supplementary ordinances. (Ref. Ord. No. 802, 3/1/90)

Subd. 2 On-Sale Wine Licenses. Special "on-sale" licenses for the sale of wine not exceeding fourteen (14%) percent alcohol by volume in conjunction with the sale of food may be issued to restaurants, as defined below, having facilities for seating not fewer than twenty-five (25) guests at one (1) time. For purposes of this subdivision, "restaurant" shall mean an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and wherein conjunction of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests. (Ref. Ord. Nos. 445, 8/17/67; 572, 4/8/75; 576, 8/12/75; 656, 12/8/81)

It shall be lawful for a holder of an on-sale wine license, who is also licensed to sell non-intoxicating malt liquors at on-sale, pursuant to City Code Section 1001, and whose gross receipts are at least 60 percent attributable to the sale of food, to sell intoxicating malt liquors at on-sale without an additional license. Proof of gross receipts of the sale of food versus the sale of liquors must be provided by the license holder on a quarterly basis and must be in a form acceptable to the City's Finance Director. (Ref. Ord. No. 782, 2/14/89)

Subd. 3. Temporary On-Sale Intoxicating Liquor License. Special "Temporary On-Sale Intoxicating Liquor Licenses" for the sale of liquor for not more than three (3) consecutive days may be issued to local clubs, charitable, religious or non-profit organizations and for special community celebrations or other special event sponsored by a local community group. Application for the license must be made on a form provided by the Minnesota Liquor Control Commission and be accompanied by an application fee of Twenty-Five Dollars (\$25.00) and proof of financial responsibility or liquor liability insurance in the amounts prescribed in State Statute 340A.409. The license may be issued by the City Clerk upon the applicant's compliance with Minnesota Statutes, and upon the approval of the City Council and the Liquor Control Commission. (Ref. Ord. 796, 10/24/89)

§1002.190 INTOXICATING LIQUOR; CONSUMPTION IN PUBLIC PLACES. It shall be unlawful for any person to consume intoxicating liquor or possess an open bottle, can or other container of such on any public street, sidewalk, alley, parking lot on City-owned property, or in the public park in the blocks bounded by Washington Square, Washington Avenue, State Highway 61 and Third (3rd) Street unless specific permission to do so is granted by resolution of the City Council. (Ref. Ord. Nos. 578, 9/9/75; 579, 12/9/75; 886, 2/9/93) Building Code

§1002.200 INTOXICATING LIQUOR: GAMBLING DEVICES ON LICENSED PREMISES. "On-sale" licensees may request permission of the City Council to permit qualified charitable organizations, as defined in Chapter 1111 of this Code, to operate or sell lawful gambling devices only on the licensed premises. The licensee shall make application for permission to the City Council and shall pay therewith the specified fee. If the application is granted, the license shall contain an endorsement specifying this approval, and the gambling endorsement may be considered for renewal at the same time as the Council may consider renewal of the "on-sale" license.

Gambling endorsements on "on-sale" licenses shall be subject to the following regulations, which shall be deemed as a part of the license, and failure of compliance may constitute grounds for revocation as prescribed in the Municipal Code:

1. Application for gambling endorsements must be made by the liquor licensee and must state the name of the qualified charitable organization. The application must also show evidence that the qualified charitable organization is licensed by the State of Minnesota pursuant to Minnesota Statutes Chapter 349 and any appropriate rules of the State of Minnesota.

2. The qualified charitable organization must meet all requirements of Chapter 1111 of this Code and must be organized to operate in White Bear Lake with not less than sixty (60) percent of its members White Bear Lake residents of the City of White Bear Lake, White Bear Township, and the City of Birchwood Village. Residency will be determined pursuant to Minnesota Statute, Chapter 201, Registration and Eligibility of Voters. If the qualified charitable organization is State or nationally chartered, its charter must designate White Bear Lake as its location. The City Council may waive this requirement if the charitable organization expends not less than eighty (80) percent of the profits from the operation of gambling for lawful purposes conducted or located within the City's trade area as defined as City of White Bear Lake, White Bear Township, Gem Lake, Vadnais Heights, City of Birchwood Village, Mahtomedi and Hugo. (Ref. Ord. 958, 5/26/98)

3. Use of the licensed premises shall be by means of a written lease agreement between the licensee and the charitable organization. The lease shall be for a term of at least one year; a copy shall be filed with the City Council, and a copy must also be kept on the premises and available for public inspection upon request. Leases shall be governed by the following:

- a. Rental payments shall not exceed:
  - 1) For booth operations - 10% of gross profits (net after taxes) with a maximum of \$1,750.00 per month. (Ref. Ord. 1013, 1/13/04)
  - 2) For bar operations - 20% of gross profits (net after taxes) with a maximum of \$2,000.00 per month. (Ref. Ord. 1013, 1/13/04)
- b. The rent payments permitted by paragraph a.:
  - 1) of this section shall be inclusive. No other services provided or



contracted by the lessor may be paid by the charitable organization.

- c. The restrictions on rent payments set forth in paragraphs a. and b. of this section shall be applicable to all leases entered into after May 31, 2003. The rent payment provisions of leases entered into prior to June 1, 2003, may continue for the remainder of their terms if they are in compliance with the ordinance provisions in effect at the time such leases were entered into.
  - d. The only form of gambling that shall be permitted on the licensed premises shall be lawful gambling devices approved by the City Council.
  - e. Lawful gambling devices may be operated or sold from a booth used solely by the charitable organizations, by employees of the licensee from the bar service area (Ref. Ord. 1058, 4/14/09).
  - f. The lease shall include the Internal Control Guidelines as prescribed by the State Gambling Board specifying the licensee's responsibilities in a bar operation. The employees of the licensee allowed to conduct lawful gambling under this section shall comply to the laws and rules of the State of Minnesota.
  - g. The construction and maintenance of the booth used by the charitable organization shall be the sole responsibility of the charitable organization.
  - h. The lease shall contain a provision permitting the licensee to terminate the lease if the charitable organization is found guilty of any violation of state or local gambling statutes, ordinances or rules and regulations.
  - i. The charitable organization allowed to conduct lawful gambling under this section shall, with its submission of an application, state the names and addresses of all persons and firms allowed or responsible to maintain records or financial statements and prepare financial reports on behalf of, or submitted to, the charitable organization, the City or the State of Minnesota. The past and present practices of these individuals or firms shall be subject to investigation by the City and may be considered by the City Council when it acts according to this section. Changes in the designation of said individuals or firms must be reported to the City by charitable organization.
4. Only one charitable organization shall be permitted to operate or sell lawful gambling devices on the licensed premises.
  5. The licensee may not be reimbursed by the charitable organization for any license or permit fees, and the only compensation which the licensee may obtain from the charitable organization is the rent fixed in the lease agreement.

6. The licensee and the charitable organization must commit to a minimum of ten (10) hours per week of operation or sale of lawful gambling devices. (Ref. Ord. No. 836, 06/11/91)

7. The Licensee shall be responsible for the charitable organization's conduct of operating and/or selling lawful gambling devices. The City Council may suspend the Licensee's permission to allow gambling on the premises for a period up to sixty (60) days for any violation of state or local gambling laws or regulations that occur on the premises by anyone, including the Licensee or the charitable organization.

Additional violations within a twelve (12) month period shall result in the revocation of the gambling permission, and may also be considered by the Council as grounds for suspension or revocation of the on-sale liquor license if the on-sale licensee knowingly allows the violation to occur on the licensed premises or otherwise participates in the violation. (Ref. Ord. 912, 6/28/94)

8. Any qualified charitable organization selling and/or operating gambling devices in on-sale liquor establishments shall remit quarterly to the City of White Bear Lake an amount up to three (3) percent of its net receipts (gross receipt less prizes equals net receipts) from the sale or operation of gambling devices. Said amount shall be set by resolution of the City Council and reviewed annually. The City shall use funds to cover the costs incurred by the City to regulate lawful gambling. (Ref. Ord. 736, 12/9/86; 912, 6/28/94)

[Editor's Note: The original building code, codified in chapters 301 to 308 and 310, Code 1966, was repealed in its entirety and replaced]