

## CHAPTER XXI

### LIQUOR AND BEVERAGES

#### Section 2100 - Non-Intoxicating Malt Liquor

Section 2100.01 Provisions of State Law Adopted. The provisions of Minnesota Statutes, Section 340A.101, relating to the definition of terms, are adopted and made a part of this ordinance as if set out in full.

Section 2100.03 License Required. Subd. 1. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any non-intoxicating malt liquor within the City without first having received a license as hereinafter provided. Licenses shall be of three kinds:

- (a) "On-Sale"
- (b) "Off-Sale"
- (c) "Temporary On-Sale."

Subd. 2. On-Sale License. "On-Sale" license shall be granted only to bona fide clubs, establishments for sale of non-intoxicating malt liquor at retail, restaurants, and hotels. "On-Sale" licenses shall permit the sale of non-intoxicating malt liquor for consumption on the premises only.

Subd. 3. Off-Sale License. "Off-Sale" licenses shall permit the sale of non-intoxicating malt liquor at retail, in the original package, for consumption off the premises only.

Subd. 4. Manufacturer. A manufacturer of non-intoxicating malt liquor may sell such liquor without a license to licensed dealers holding either "On-Sale" or "Off-Sale" licenses, and may sell and deliver non-intoxicating malt liquor, in quantities of not less than two gallons, direct to consumers at their homes. Such manufacturer or any affiliated or subsidiary company thereof shall not sell non-intoxicating malt liquor except as prescribed in this ordinance. An affiliated or subsidiary company shall be one in which such manufacturer or its stockholders own a majority of the stock.

Subd. 5. Temporary On-Sale. "Temporary On-Sale" shall permit the sale of non-intoxicating malt liquor for consumption on the premises of public buildings or grounds only under the auspices or sponsorship of a non-profit organization.

Section 2100.05 Licensed Premises. "Licensed premises" is the premises described in the approved license application.

Section 2100.07 Application Form.

Subd. 1. Any person desiring to sell non-intoxicating malt liquors shall make application in writing, in duplicate, to the City Clerk, on a form supplied by the City and containing such information as the Clerk or the City Council may require.

Section 2100.09 Procedure. The application shall be signed and verified by the applicant, and if the applicant is a corporation, then by an officer thereof, before a notary public or other officer authorized to administer oaths. No application shall be considered unless accompanied by a receipt showing the full payment of the license fee, which fee shall be returned if the license is denied. Upon the filing of an application for a license, together with the instruments required to accompany the license, the City Clerk shall immediately be forwarded to the Police Chief, who shall make or cause to be made, an immediate investigation of all information material to the application and granting of the license. Upon the completion of the investigation, the Police Chief shall submit in writing to the Clerk's Office his complete findings and recommendations to the City Council.

Section 2100.11 False Statement. Any person who shall willfully make any false statement in his application for a license, or who shall willfully deceive, or attempt to deceive, the Council or any City officer on City business by any statement or answer made in connection with an investigation, shall be held in violation of the provisions of this ordinance.

Section 2100.13 Renewal Or Transfer. Applications for the renewal of licenses shall be filed with the City Clerk on or before June 1st of each year preceding the expiration of the current license. Any person applying for this first license desiring to transfer a license from one location to another shall make application not less than two weeks prior to the regular Council meeting at which the application shall be considered. Temporary On-Sale licenses shall not be renewable and not more than three Temporary On-Sale licenses may be issued to any one club, charitable, religious, or educational nonprofit organization during any twelve month period. However, Temporary On-Sale licenses may be issued on successive days provided that not more than three temporary licenses are issued to the same organization or group during any twelve month period.

Section 2100.15 License Fees. Each application for a license shall be accompanied by a receipt of the City Treasurer showing payment in full of the annual fee prescribed for the license applied for. The fees shall be as follows:

|                                   |         |
|-----------------------------------|---------|
| On Sale Non-intoxicating Liquor   | \$25.00 |
| Off Sale Non-intoxicating Liquor  | \$25.00 |
| Temporary Non-intoxicating Liquor | \$25.00 |

Section 2100.17 Date of Expiration. All licenses shall expire on the last day of June of each year. Any person desiring a license for the succeeding year shall make application therefore not later than the first day of June. A Temporary On-Sale license shall be issued for one day only and shall expire at 12:00 midnight of the day for which issued.

Section 2100.19 Granting of License. Subd. 1. Review Procedure. Upon the filing of an application for a license, together with the documents required to accompany the license, the City Clerk shall forward a copy of the application and accompanying documents to the Planning Director, Police Chief, and City Attorney.

The Planning Director shall review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.

The Police Chief shall make or cause to be made a review of the application to determine the

potential impact of law enforcement. The Police Chief shall also make or cause to be made an investigation of the applicant's character and criminal history.

The City Attorney shall review the application for compliance with all applicable statutes and ordinances.

Subd. 2. License Restrictions. Transfers. Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license may be transferred to another person or place without prior City Council approval. Any person desiring to transfer a license from one location to another shall make application not less than two weeks prior to the regular Council meeting at which the application shall be considered. Changes in corporation directors and officers must be reported within 30 days to the City Clerk. Any transfer of stock of a corporate licensee which constitutes a transfer of more than ten percent (10%) of that corporation's outstanding stock is deemed a transfer of the license. No such transfer may be made without prior Council approval.

Subd. 3. Review and Investigation Fee. At the time of each original application for a license or at the time of any application for the transfer of an existing license, the applicant shall pay in full a review and investigation fee. If the review and investigation is conducted solely within the State of Minnesota, the fee shall be \$10.00.

Should the City Council find that an investigation is required outside the State of Minnesota, the fee shall be that established for the same class of in-State review and investigation in addition to which shall be added actual costs of review and investigation exceeding the in-State fee. For investigation outside of the State of Minnesota, the portion of the fee for the in-State investigation shall be paid at the time of the original application; any fee due in excess of that amount must be paid prior to the time that the City Council considers the application.

Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

No review and investigation fee shall be refunded.

Subd. 4. Temporary On-Sale License Review. Temporary On-Sale licenses may be issued by the City Clerk without approval by the City Council provided that applications for Temporary On-Sale licenses are reviewed by the Chief of Police in accordance with Section 2100.09 hereof.

The report of the Chief of Police shall in the cases of Temporary On-Sale licenses only be forwarded to the City Clerk.

Subd. 5. Proof of Financial Responsibility. At the time of filing of the application for a license under this ordinance, proof of financial responsibility with regard to liability imposed by Minnesota Statutes 340A.409 must be furnished to the municipality. The municipality must submit to the Commissioner of Public Safety the applicant's proof of financial responsibility prior to the license being granted. Proof of financial responsibility shall be provided as follows:

- (1) A certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence; or
- (2) A bond of a surety company with minimum coverage's as provided in clause (1); or
- (3) A certificate of the State Treasurer that the license has deposited with the State Treasurer \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

Subd. 5 shall not apply to licensees who by affidavit establish that (a) they are on-sale non-intoxicating malt liquor licensees with sales of less than \$10,000 of non-intoxicating malt liquor for the preceding year; or (b) they are off-sale non-intoxicating malt liquor licensees with sales of less than \$20,000 of non-intoxicating malt liquor for the preceding year.

#### Section 2100.21 Persons Ineligible For License.

Subd. 1. No license shall be granted to or held by any person included in the subdivisions which follow.

Subd. 2. Age. Under twenty-one (21) years of age;

Subd. 3. Convicted of Crime. Who within a period of five years immediately prior to the filing of his application has been convicted of a felony or of a violation of any law of this State or of any ordinance of a city of the State relating to the sale of non-intoxicating malt liquor or of intoxicating liquors;

Subd. 4. Manufacturer or Wholesaler. Who is a manufacturer or wholesaler of non-intoxicating malt liquor, or who is interested in the control of any place where non-intoxicating malt liquor is manufactured;

Subd. 5. Citizen. Resident Alien. Non-Resident. Who is not a citizen of the United States, or resident alien or a nonresident of the City unless such non-resident has been continuously engaged in a business or profession in the City and giving his personal attention to said business or profession for a period of 10 years immediately prior to the filing of his application for such license or was holding a license to sell non-intoxicating malt liquor at the time of the adoption of Ordinance #21, and has continuously held such a license to the time of making his application, and nonresident shall be defined to mean one who does not live within 10 miles of City Hall;

Subd. 6. Good Character. Who is not of good moral character;

Subd. 7. Holder Federal Stamp. Who is, or during the period of his license becomes, the

holder of a Federal retail liquor dealer's special tax stamp for the sale of intoxicating malt liquor at any place, unless there has also been issued to him a local license to sell intoxicating malt liquor at such place;

Subd. 8. Not the Proprietor. Who is not the proprietor of the establishment for which the license is issued;

Subd. 9. No Other Establishment For "On-Sale". Who is directly or indirectly interested in any other establishment in the municipality to which an "On-Sale" license has been issued under the ordinance

#### Section 2100.23 Conditions of License.

Subd. 1. Every license shall be granted subject to the conditions specified in the following subdivisions and all other provisions of this ordinance and the provisions of any other applicable ordinance or of State law;

Subd. 2. License Posted. The license shall be posted in a conspicuous place on the licensed premises at all times.

Subd. 3. Licensee Responsible for Conduct. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to serve or sell non-intoxicating malt liquor shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties provided by this ordinance equally with the employee.

Subd. 4. No Sale to Intoxicated Persons or Persons Under 21 Years of Age. No non-intoxicating malt liquor shall be sold or furnished to any intoxicated person, or to any person under 21 years of age; provided, however, in any proceeding in a court for a sale of non-intoxicating malt liquor to a minor, the defendant may establish by competent evidence sufficient to convince a careful and prudent person that such sale is not a violation of this subsection, such evidence shall be considered in determining whether the defendant is guilty of intent to violate this ordinance. A person who was born on or before September 1, 1967 shall be treated for purposes of this ordinance as a person who is 21 years old, and may continue to be sold or furnished non-intoxicating malt liquor.

Subd. 5. Employing Persons Under 21 Years of Age. No person under 21 years of age shall be employed in any place where non-intoxicating malt liquor is sold for consumption on the premises, except persons under 21 may be employed by the licensed establishment to perform work, including the serving of alcoholic beverages, unless otherwise prohibited by Minnesota Statutes 340A.412, Subd. 10.

Subd. 6. Slot Machines and Gambling Devices. No licensee shall keep, possess or operate or permit the keeping, possession, or operation of any slot machines, dice, or any gambling device or apparatus on the licensed premises or any room adjoining the licensed premises under his control except that gambling devices may be kept or operated and raffles conducted on licensed premises or any room adjoining the licensed premises under his control where the gambling device or raffle is licensed as provided pursuant to the laws of the State of Minnesota.

Subd. 7. Owner of Equipment. No equipment or fixture in any licensed place shall be owned in whole or in part by any wholesaler, manufacturer, or distiller of non-intoxicating malt liquor;

Subd. 8. Display of Intoxicating Liquor. (a) No person holding a license to sell non-intoxicating malt liquor who does not also hold a license to sell intoxicating liquor, shall sell or permit the consumption or display of intoxicating liquor on the premises, or serve any liquids for the purpose of mixing the same with intoxicating liquor. The presence of intoxicating liquors on the premises of such 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 the same with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance. (b) A person holding a license to sell non-intoxicating malt liquor and a permit issued by the State Liquor Control Commissioner, pursuant to Minnesota Statutes Annotated, Chapter 735, to operate a bottle club, but who does not have a license to sell intoxicating liquor, may display intoxicating liquors and permit the consumption thereof on the premises, in the manner and to the extent, but only in the manner and to the extent permitted by said statute, as so amended, but shall not sell intoxicating liquor thereon.

Subd. 9. City Officials Right to Enter. Any Police Officer, Health Officer, or any properly designated officer of the City shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search warrant and any Police Officer shall have the right to seize all gambling devices found on the licensed premises.

Subd. 10. Ethyl Alcohol or Neutral Spirits. No "On-Sale" establishment shall keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises either alone or mixed with any other beverage.

Subd. 11. Certain Acts Prohibited. The City of Rice does hereby ordain that it is in the best interest of the public health, safety and general welfare of the people of the City of Rice that certain types of entertainment, as hereinafter set forth, be prohibited upon the premises of licensed liquor and beer establishments so as to best protect and assist the owners and operators and employees thereof, as well as the patrons thereof and the public in general. Further the City does ordain that the standards set herein are reflective of the prevailing community standards in the City of Rice. It shall be unlawful for any licensee to permit or to suffer any person or persons from being upon the licensed premises when such person does not have his or her buttocks, anus, breast and genitals covered with a non-transparent material.

Subd. 12. Live Entertainment and Dancing. Any license desiring to provide live entertainment or allow public dancing must conduct that activity entirely within the licensed premise as that term is defined in Section 2105.07 of this Ordinance.

Section 2100.25 Hours of Operation. No non-intoxicating malt liquor shall be sold on Sunday between 1:00 a.m. and 12:00 noon nor between the hours of 1:00 a.m. and 8:00 a.m. on any weekday Monday through Saturday inclusive. No licensee, nor the employee, nor the agent of any licensee, shall serve, dispense, or in any manner furnish non-intoxicating malt liquor; nor permit the consumption of any non-intoxicating malt liquor; nor permit the presence of any open bottle or open receptacle containing non-intoxicating malt liquor on the licensed premises on Sunday between 1:00 a.m. and 12:00 noon, nor

between the hours of 1:00 a.m. and 8:00 a.m. on any week day Monday through Saturday inclusive. A violation of Section 2100.01-2100.33 shall be a misdemeanor.

Section 2100.27 Physical Facilities. Subd. 1. Partitions or Screens. There shall be no partition, box, stall, screen, curtain, or other device which shall obstruct a view of any part of the room, except that partition, Subd., or panels not higher than forty-eight (48) inches from the floor may be maintained.

Subd. 2. Toilet Facilities. Every "On-Sale" licensee shall maintain upon the premises for which the license is issued public toilets conveniently located and of easy access for the accommodations of his customers. The toilets shall conform to the City's building code and shall be maintained at all times in conformation with municipal ordinances and State laws. Separate toilets shall be provided for each sex and shall be properly designated.

Section 2100.29 Clubs. No licensed club shall sell non-intoxicating malt liquor except to members and to guests in the company of members.

Section 2100.31 Restrictions on Purchase or Consumption. Subd. 1. Mix or Prepare Liquor. No person shall mix or prepare liquor for consumption in any public place of business not licensed to sell liquor "On-Sale" and no person shall consume liquor in any such place.

Section 2100.33 Suspension or Revocation. Subd. 1. Notice of Violation. The Police Chief, upon a conviction of a violation of any of the provisions of this ordinance, shall report, in writing, such violation to the Clerk's Office, giving all facts and circumstances pertaining thereto known to him. The Clerk's Office shall forthwith transmit said report to the Council at its first regular meeting held thereafter. If the Council determines from the facts and circumstances known to it, that the same may warrant a suspension or revocation of the licenses held by the licensee, it shall fix a time and place for a hearing thereon sufficiently in advance to enable ten days written notice to be given to the licensee of the time, place and purpose of such hearing. The Clerk's Office shall forthwith prepare a written notice of such hearing, stating the time, place and purpose thereof, and cause said notice to be served upon the licensee.

Subd. 2. Hearing on Alleged Violation. At the time of the hearing, the licensee may appear and present any evidence which he may deem material to the investigation. If the Council shall find from all the evidence produced that the licensee is guilty of a violation of any of the provisions of this ordinance, other than one which calls for a mandatory revocation, it may suspend or revoke the license held by the licensee under this ordinance. In the event of such suspension, the Council shall also suspend any licenses held by the licensee under the intoxicating liquor ordinance, and in the event of a revocation, the Council shall also revoke any licenses held by the licensee under the intoxicating liquor ordinance. No suspension of licenses shall exceed sixty (60) days. The licensee shall be given notice in writing of any such action by the Clerk's Office.

Subd. 3. Temporary On-Sale License Violations. In the event that any holder of a Temporary On-Sale license violates any of the provisions of this ordinance, the City Clerk may refuse to issue said organization, group or individual a subsequent license. In the event of such refusal, the aggrieved party may petition the City Council for a hearing in order to present any evidence which the aggrieved party deems material to the refusal.

Section 2105 - Intoxicating Liquor

Section 2105.01 Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, are adopted and made a part of this ordinance as if set out in full.

Section 2105.03 Licenses. Subd. 1. License Required. No person, except wholesalers shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance.

Subd. 2. On-Sale Licenses. "On-Sale licenses shall be issued only to hotels, restaurants, exclusive liquor stores, and clubs, and shall permit "on-sales" of liquor only. The following classes of on-sale licenses shall be used for the purposes of establishing license fees:

|                                 | FEE        |
|---------------------------------|------------|
| Exclusive Liquor Store, On-Sale | \$1,500.00 |
| Restaurants, On-Sale            | \$1,500.00 |
| Clubs, On-Sale                  | \$100.00   |

Subd. 3. Off-Sale Licenses. "Off-Sale" licenses shall be issued only to exclusive liquor stores and drug stores; the number of licenses issued pursuant to this ordinance shall be established from time to time by the City Council. The following classes of off-sale licenses shall be used for the purpose of establishing license fees:

|                                   | FEE                      |
|-----------------------------------|--------------------------|
| Exclusive Liquor Stores, Off-Sale | \$100.00                 |
| Drug Stores, Off-Sale             | No Fee Set At This Time. |

Subd. 4. Number of Off-sale Intoxicating Liquor Licenses. The City will have available the following number of off-sale intoxicating liquor licenses which will be limited by the size of the City's population:

| <u>Population</u>                                           | <u>Number</u>                                              |
|-------------------------------------------------------------|------------------------------------------------------------|
| Less than 750                                               | 2                                                          |
| For each additional population increase of 250 individual's | One additional license for each population increase of 250 |

Subd. 5. Sunday Sales. Notwithstanding the provisions of Section 2105.17 of this ordinance, any hotel, restaurant, or club as defined in this ordinance to which an on-sale license has been issued, and which has facilities for serving not less than 30 guests at one time, may serve intoxicating liquors between the hours of 12:00 p.m. on Sundays and 1:00 a.m. on Monday in conjunction with the serving of food. Such establishment shall maintain an adequate staff, including a cook whose duties shall include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant, hotel or club. It is unlawful for any such



establishment, directly or indirectly, to sell or serve such intoxicating liquors without having first obtained special license therefore. The special Sunday license shall be subject to all the requirements imposed upon on-sale licenses by this ordinance and by State Statute. The following license class shall be used for the purposes of establishing the license fee:

|                |          |
|----------------|----------|
|                | FEE      |
| Special Sunday | \$200.00 |

Subd. 6. On-Sale Wine Licenses. "On-Sale Wine Licenses" shall be issued for the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. The holder of an on-sale wine license who is also licensed to sell on sale 3.2 percent malt liquors and whose gross receipts are at least 60 percent attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional license. Licenses under this section are not valid unless first approved by the Commissioner of Public Safety. The following license class shall be used for the purposes of establishing the license fee:

|              |                          |
|--------------|--------------------------|
|              | FEE                      |
| On-Sale Wine | No Fee Set at This Time. |

Subd. 7. Temporary On-Sale Licenses. A club or charitable, religious or other non-profit organization in existence for at least three years may apply for and be granted a temporary license for the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee. The license shall be issued for not more than three consecutive days, may authorize sales on premises other than those owned by the licensee and may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the City.

Application for temporary on-sale licenses shall be as follows and shall not be subject to other criteria relating to application forms and procedures for licenses as set forth in Section 2105.05, Subd. 1 of this Code.

All applications must be submitted to the City Clerk's office at least 60 days prior to the date of the event. The application shall be provided by the City Clerk's office and shall be accompanied by a non-refundable fee set forth in Section 2105.01 of this Code, and proof of financial responsibility as set forth in Section 2105.05, Subd. 2 of this Code.

Upon review of the application, the City Council shall approve or disapprove the license in its discretion after considering input from any person heard for or against the granting of the license. The following license class shall be used for the purposes of establishing the license fee:

|                   |                          |
|-------------------|--------------------------|
|                   | FEE                      |
| Temporary On-Sale | No Fee Set At This Time. |

Section 2105.05 Application for License.

Subd. 1. Forms and Procedure.

(a) Forms. Any person desiring to sell intoxicating liquors under licenses as defined shall make application in writing providing an original and four (4) copies to the City Clerk. The application shall be on a form provided by the City Clerk, and shall include the form prescribed by the State Liquor Control Commissioner, shall state the category of on-sale license applied for (exclusive liquor store, or club, etc.), and shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the type of license applied for (on-sale, off-sale, Sunday sales, temporary on-sale, on-sale wine) the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. The application shall be verified, and any person who shall willfully make any false statement in his application for a license, or who shall willfully deceive, or attempt to deceive, the Council or any City official by any statement or answer made in connection with an investigation, shall be in violation of the provisions of the ordinance.

Whenever the application for an on-sale license to sell intoxicating liquor is for premises on which new construction or the alteration of existing structures is to occur, the application shall be accompanied by a set of preliminary plans showing the interior and exterior design, including site and space allocation and utilization.

The applicant shall submit with the completed application form an executed release of information authorizing the Chief of Police to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state.

The applicant shall also submit any additional information as may be required by the City or any department thereof.

Each applicant for an initial on or off-sale liquor license, a license renewal, or an applicant for a transfer of these licenses shall authorize, by signed statement, the City to request from the Minnesota Commissioner of Revenue a tax clearance certificate pursuant to M.S. Section 290.612 and 297A.431. The City Clerk shall then request said certificate from the Commissioner, which shall disclose and make public to the City, amounts of State tax delinquencies and instances of non-filing of tax returns. The Commissioner shall not disclose to the City any amounts of tax liability where there is an administrative or court action questioning the amount or the validity of the liability or where the taxpayer's appeal period has not expired.

(b) Review Procedure. Upon the filing of an application, the City Clerk shall forward a copy of the application and accompanying documents to the Planning Director, Police Chief and City Attorney.

The Planning Director shall review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.

The Police Chief shall make or cause to be made a review of the application to determine the potential impact of law enforcement. The Police Chief shall also make or cause to be made an

investigation of the applicant's character and criminal history.

The City Attorney shall review the application for compliance with all applicable statutes and ordinances.

The Police Chief, Planning Director, and City Attorney shall submit in writing to the Clerk their respective findings and recommendations. The Clerk shall immediately submit the application, to the City Council for its review.

(c) Review and Investigation Fee. At the time of each original application for a license or at the time of any application for the transfer of an existing license, the applicant shall pay in full a review and investigation fee. If the review and investigation is conducted solely within the State of Minnesota, the fee shall be \$10.00.

Should the City Council find that an investigation is required outside the State of Minnesota, the fee shall be that established for the same class of in-State review and investigation in addition to which shall be added actual costs of review and investigation exceeding the in-State fee. For investigations outside of the State of Minnesota, the portion of the fee for the in-State investigation shall be paid at the time of the original application; any fee due in excess of that amount must be paid prior to the time that the City Council considers the application.

Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

No review and investigation fee shall be refunded.

Subd. 2. Proof of Financial Responsibility. At the time of filing of the application for a license under this ordinance, proof of financial responsibility with regard to liability imposed by Minnesota Statutes 340A.409 must be furnished to the municipality. The municipality must submit to the Commissioner of Public Safety the applicant's proof of financial responsibility prior to the license being granted. Proof of financial responsibility shall be provided as follows:

- (1) A certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence; or
- (2) A bond of a surety company with minimum coverage's as provided in clause (1); or
- (3) A certificate of the State Treasurer that the license has deposited with the State Treasurer \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

Proof of financial responsibility shall not apply to licensees who by affidavit establish that (a) they are on-sale non-intoxicating malt liquor licensees with sales of less than \$10,000 of non-intoxicating malt liquor for the preceding year; (b) they are off-sale non-intoxicating malt liquor licensees with sales of less than \$20,000 of non-intoxicating malt liquor for the preceding year; and (c) they are holders of on-sale wine licenses with sales of less than \$10,000 for wine for the preceding year.

Subd. 3. Approval of Security. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney.

The filing of the above described security for license shall be deemed sufficient for the purpose of the issuance of a "Special License for Sunday Liquor Sales", provided the terms of such security are amended to include the periods during which such licensee is operating under a "Special License for Sunday Liquor Sales".

Subd. 4. License Fees. Each application for a license shall be accompanied by a receipt of the City Treasurer showing payment in full of the annual fee prescribed for the license applied for.

Subd. 5. Date of Expiration. All licenses shall expire on the last day of June of each year. Any person desiring a license for the succeeding year shall make application therefore not later than the first day of June preceding the expiration of the current license.

Section 2105.07 Contents of Application. In addition to the information which may be required by the State Liquor Control Commissioner's form, the application shall contain the information set forth in the subdivisions which follow.

Subd. 1. True name, place, and date of birth, and street residence address of applicant.

Subd. 2. Whether applicant is married or single. If married, true name, place and date of birth, and street residence address of applicant's spouse.

Subd. 3. Whether applicant and spouse are registered voters of Rice.

Subd. 4. Street addresses at which applicant has been living during the preceding 10 years.

Subd. 5. Kind, name and location of every business or occupation applicant has been engaged in during the preceding 10 years.

Subd. 6. Names and addresses of applicant's employers for the preceding 10 years.

Subd. 7. Whether or not applicant has ever been convicted of any felony, crime, or ordinance violation. If so, when, where and for what such convictions were had.

Subd. 8. Whether applicant has ever been engaged as an employee in operation of a saloon, cafe or other business of similar nature. If so, when, where and for how long.

Subd. 9. Whether applicant is a natural person, corporation, partnership, or unincorporated association.

Subd. 10. If applicant is other than a natural person, the name of the manager or proprietor of the premises to be licensed, giving all the information about said manager or proprietor as is required about the applicant by Subd. 2 above.

Subd. 11. If applicant is other than a natural person, the names of all the members or owners thereof, giving all the information about said members or owners as is required about the applicant by Subd. 2 above. This Subd. 11, however, shall not apply to a hotel applying for an "On-Sale" license to be owned and operated by it.

Subd. 12. The floor number, street number, and square footage of rooms where the sale or consumption of liquor is to be conducted, and if to be conducted in a restaurant, the number of dining rooms, and square footage thereof, open to the public where meals are regularly served to guests. The applicant shall include a diagram drawn to scale (scale must be indicated on diagram) on size 8½" by 11" graph paper showing the gross area of rooms where sales or consumption of liquor is to be conducted. Calculations of gross areas shall be made without further exclusion as to location of bars, coolers, restrooms, etc. Each floor shall be shown on a separate diagram.

Subd. 13. Names and addresses of the owner and any lessees of the land upon which is located the building which houses the premises to be licensed.

Subd. 14. Names and addresses of all owners, lessees, mortgagors or vendors of fixtures or furniture used or to be used in the premises to be licensed.

Subd. 15. Name and address of every person who shall have charge, management or control of the place licensed.

Subd. 16. Names and residence and business addresses of 3 persons, residents of Rice, of good moral character, not related to the applicant, who may be referred to as to his character.

Subd. 17. If applicant is a corporation, partnership, unincorporated association, or club, the name and general purpose of such corporation, partnership, unincorporated association, or club, and the names and street addresses of all officers. In addition, corporations shall file with the application two certified copies of the by-laws, articles of incorporation, and minutes of the meeting setting forth the officers of the corporation.

Subd. 18. If applicant is a corporation, the state of incorporation, and a complete list of all stockholders with number of shares owned by each.

Subd. 19. If applicant is a partnership, the names and addresses of all partners.

Subd. 20. If a permit from the Federal government is required by the laws of the United States, whether or not such permit has been issued and, if so, in what name.

Subd. 21. Exact legal description of the premises to be licensed.

Subd. 22. Whether or not all real estate and personal property taxes for the premises to be licensed have been paid, and if not paid, the years for which delinquent.

Subd. 23. A copy of each summons received by the applicant under Minnesota Statutes Section 340A.801 during the preceding year.

Subd. 24. Such other information as the City Council may require.

Section 2105.09 Granting of Licenses. Subd. 1. Council Investigation. Hearing. The Council shall investigate all facts set out in the application and shall hold a public hearing before granting the license. A notice of the filing of the application shall be published in the legal newspaper at least one week before the public hearing, giving the name of the applicant, the location of the premises, and the time and place when the application will be considered. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application in its discretion. No "Off-Sale" license shall become effective until it, together with the bond furnished by the applicant, and has been approved by the Liquor Control Commissioner. After such approval, the City Clerk shall immediately issue the license.

Subd. 2. Information to Liquor Commissioner. The City Clerk shall, within ten days after the issuance of any "On-Sale" license under this ordinance, submit to the Liquor Control Commissioner the full name and address of each person granted a license, the trade name, if any, the effective license date, and the date of expiration of the license. He shall also submit to the Liquor Control Commissioner any change of address, transfer, cancellation, or revocation of any "On Sale" or "Off-Sale" license by the Council during the license period.

Subd. 3. License Restrictions; Transfers. Each license shall be issued to the applicant only. Each license shall be issued for only the compact and contiguous space specified in the application or shown on the final plans pursuant to Section 2105.07. No license may be transferred to another person or place without prior City Council approval. Any person desiring to transfer a license from one location to another shall make application not less than two weeks prior to the regular Council meeting at which the application shall be considered. Changes in corporation directors and officers must be reported within 30 days to the City Clerk. Any transfer of stock of a corporate licensee which constitutes a transfer of more than ten percent (10%) of that corporation's outstanding stock is deemed a transfer of the license. No such transfer may be made without prior Council approval.

Section 2105.11 Persons Ineligible For License. Subd. 1. No license shall be granted to or held by any person included in the subdivisions which follows.

Subd. 2. Age. Under twenty-one (21) years of age.

Subd. 3. Good Character. Who is not of good moral character or repute.

Subd. 4. Citizen. Resident Alien. Non-Resident. Who is not a citizen of the United States, or resident alien or a non-resident of the City unless such non-resident has been continuously engaged in a business or profession in the City and giving his personal attention to said

business or profession for a period of 10 years immediately prior to the filing of his application for such license or was holding a license to sell intoxicating liquor prior to current year and has continuously held such a license to the time of making his application, and non-resident shall be defined to mean one who does not live within 10 miles of the City Hall.

Subd. 5. Convicted of a Crime. Who, within five years prior to the application of such license, has been convicted of any willful violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor.

Subd. 6. Manufacturer or Wholesaler. Who is a manufacturer or wholesaler of intoxicating liquor or is interested directly or indirectly in the ownership or operation of any such business.

Subd. 7. No Other Establishment. Who already has a direct or indirect interest in another on-sale intoxicating establishments or one off-sale intoxicating establishment in the municipality to which a license of the same class has been issued under this ordinance. The term "interest" includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide 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 such establishments; 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 therewith; or 10 percent or less interest in any other corporation holding a license.

Subd. 8. Not The Proprietor. Who is not the proprietor of the establishment for which the license is issued.

Subd. 9. Spouse. Whose spouse has a financial interest in any "On Sale" or "Off Sale" intoxicating liquor establishment or whose spouse has had a liquor license revoked within five years prior to the date of application.

Subd. 10. Corporations. In the case of a corporation, the manager or person in charge shall be subject to all of the above qualifications, and the corporation itself shall be subject to Subds. 4, 5, 6 and 7.

Section 2105.13 Places Ineligible For Licenses. Subd. 1. No license shall be granted for places included in the following subdivisions unless otherwise expressly permitted in this section.

Subd. 2. Payment of Taxes. Etc. Any premises on which assessments or other financial claims of the City or State are due, delinquent, or unpaid. The City may waive strict compliance with this provision where an action has been commenced pursuant to the provisions of Minnesota Statutes, questioning the amount or validity of any assessment, tax, or other financial claim.

The City may issue a conditional license where the applicant or transferor has entered into a payment agreement with the Revenue Department or the City to satisfy the liability in question. However, if the terms of said payment agreement are not satisfied, the City shall revoke the conditional license and the application or transferor shall waive any right to a hearing pursuant to M.S. 340.135

Subd. 3. Restriction On Property Owners. Any premises owned by a person to whom a license may not be granted under this ordinance, except an owner who is a minor, alien, or a person who has been convicted of a crime other than the violation of Extra Session Laws 1934, Chapter 46.

Subd. 4. License of Another Class. Any place, except an exclusive liquor store, for which a license of another class has been granted under this ordinance.

Section 2105.15 Conditions of License. Subd. 1. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the City or State law.

Subd. 2. License Posted. The license shall be posted in a conspicuous place on the licensed premises at all times.

Subd. 3. Licensee Responsible For Conduct. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell or serve intoxicating liquor shall be deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance equally with the employee.

Subd. 4. Space Named. No license shall be effective beyond the compact and contiguous space specified in the license for which it was granted. The diagram submitted with the application pursuant to Section 2105.07, Subd. 12, or the final plans submitted pursuant to Section 2105.05, shall become part of the license and shall show the compact and contiguous space specified. All space specified shall include the gross area of each room where sales or consumption of liquor is to be conducted without further exclusion (as to location of bars, coolers, restrooms, etc.).

Subd. 5. No Sale to Intoxicated Persons or Person Under 21 Years of Age. No liquor shall be sold or furnished to any intoxicated person, or to any person under 21 years of age; provided, however, in any proceeding in a court for a sale of liquor to a minor, the defendant may establish by competent evidence that he has made a bona fide and careful investigation of such person and he has determined upon evidence sufficient to convince a careful and prudent person that such sale is not a violation of this Subd.; such evidence shall be considered in determining whether the defendant is guilty of intent to violate this ordinance.

Subd. 6. Employing Persons Under 21 Years of Age. No person under 21 years of age shall be employed in any place where intoxicating liquor is sold for consumption on the premises, except persons under 21 may be employed by the licensed establishment to perform work, including the services of alcoholic beverages, unless otherwise prohibited by Minnesota Statutes 340A.412, Subd. 10.

Subd. 7. Slot Machines and Gambling Devices. No licensee shall keep, possess, or operate or permit the keeping, possession, or operation of any slot machines, dice, or any gambling device or apparatus on the licensed premises or in any room adjoining the licensed premises under his control except that gambling devices may be kept or operated and raffles conducted on licensed



premises of any room adjoining the licensed premises under his control where the gambling device or raffle is licensed as provided pursuant to the laws of the State of Minnesota.

Subd. 8. Owner of Equipment. No equipment or fixture in any licensed place shall be owned in whole or in part by any wholesaler, manufacturer, or distiller of intoxicating liquor.

Subd. 9. City Officials Right to Enter. Any police officer, health officer, or any properly designated officer of the City shall have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search warrant and any police officer shall have the right to seize all gambling devices found on the licensed premises.

Subd. 10. Restriction On Display. No on-sale liquor establishment shall display liquor while open to the public during the hours when the sale of liquor is prohibited by this ordinance. During all hours when the sale of liquor is prohibited by this ordinance, all bar areas and liquor storage areas shall be closed and locked, and all persons, except said licensee, his bona fide employees and law enforcing officers, shall thereafter be continuously excluded there from until the time next thereafter when such liquor may again be legally sold therein.

Subd. 11. Ethyl Alcohol Or Neutral Spirits. No licensee shall keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises either along or mixed with any other beverage.

Subd. 12. Lewd Or Indecent Conduct Prohibited. No lewd or indecent conduct shall be allowed or permitted on the licensed premises. For the purposes herein, lewd or indecent conduct shall include "nudity" and "sexual conduct" as those terms are defined in M.S. 617.292.

Subd. 13. Certain Acts Prohibited. The City of Rice does hereby ordain that it is in the best interest of the public health, safety, and general welfare of the people of the City of Rice that certain types of entertainment, as hereinafter set forth, be prohibited upon the premises of licensed liquor and beer establishments so as to best protect and assist the owners and operators and employees thereof, as well as the patrons thereof and the public in general. Further the City does ordain that the standards set herein are reflective of the prevailing community standards of the City of Rice. It shall be unlawful for any licensee to permit or to suffer any person or persons from being upon the licensed premises when such person does not have his or her buttocks, anus, breast and genitals covered with a non-transparent material.

Subd. 14. Live Entertainment and Dancing. Any licensee desiring to provide live entertainment or allow public dancing must conduct that activity entirely within the licensed premise as that term is defined in Section 2105.01 of this ordinance.

Section 2105.17 Time When Sales Are Prohibited. Subd. 1. No intoxicating liquor shall be sold during the hours as prohibited in the subdivisions which follow.

Subd. 2. "On Sales". "On Sales" may not be made:

- (a) Between 8:00 a.m. and 2:00 a.m. of any day.
- (b) Between 2:00 a.m. on Sunday and 8:00 a.m. on Monday, unless the licensee

shall have obtained a Special Sunday license pursuant to this ordinance, in which case sales may be made on Sundays between the hours of 12:00 p.m. and 2:00 a.m. of Monday in conjunction with the serving of food.

- (c) After 8:00 p.m. on December 24.

Subd. 3. "Off Sales". "Off Sales" may not be made:

- (a) After 10:00 p.m. and before 8:00 a.m. on any day except as provided herein;
- (b) During any Sunday, Thanksgiving Day, or Christmas Day; however, on the evening preceding these holidays, "Off Sales" may be made until 10:00 p.m., except the day before Christmas, December 24, no sales shall be made after 8:00 p.m.

Subd. 4. Time When Sales Are Prohibited. No licensee, nor the employee, nor the agent of any licensee, shall serve, dispense, or in any manner furnish intoxicating liquor; nor permit the consumption of any intoxicating liquor; nor permit the presence of any open bottle or open receptacle containing intoxicating liquor on the licensed premises on Sunday between 1:30 a.m. and 12:00 noon, nor between the hours of 1:30 a.m. and 8:00 a.m. on any weekday Monday through Saturday inclusive.

#### Section 2105.19 Closing of Bar and Restricting Other Business Operated in Connection Therewith.

Subd. 1. The word "bar", as used in this section, means the room or rooms in which a licensee under an "On Sale" liquor license customarily prepared, mixes or pours intoxicating drinks.

Subd. 2. All persons, except the licensee, his bona fide employees and law enforcing officers, shall be excluded from the bar within thirty minutes after the expiration of the time of any day when intoxicating liquor may be legally sold therein, and all doors into said bar shall then be closed and locked, and all persons, except said licensee, his bona fide employees and law enforcing officers, shall thereafter be continuously excluded there from until the time next thereafter when such liquor may again be legally sold therein.

Subd. 3. If the licensee is operating any other lawful business in the building in which the bar is located, no intoxicating liquor shall be served or permitted to be consumed on the premises where such other business is conducted during the time when the bar is closed as aforesaid.

Section 2105.21 Clubs. No licensed club shall sell liquor except to members and to guests in the company of members.

Section 2105.23 Restrictions On Purchase Of Licenses. Subd. 1. Mix Or Prepare Liquor. No person shall mix or prepare liquor for consumption in any public place of business not licensed to sell liquor "On Sale" and no person shall consume liquor in any such place.

Section 2105.25 Suspension Or Revocation Of Licenses. Subd. 1. The Council shall follow the provisions of the subdivisions of this section of the ordinance on the suspension or revocation of any license granted under this ordinance.

Subd. 2. Notice Of Violation. The Chief of Police, upon a conviction of the licensee or of an employee of the licensee, of a violation of any provision of this ordinance, committed in the operation of licensee's business, shall report, in writing, such violations to the Clerk's Office, giving all facts and circumstances pertaining thereto known to him. The Clerk's Office shall forthwith transmit said report to the Council at its first regular meeting held thereafter. If the Council determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that the same may warrant a suspension or revocation of the licenses held by the licensee, it shall fix a time and place for a hearing thereon sufficiently in advance to enable ten days written notice to be given to the licensee of the time, place and purpose of such hearing. The Clerk's Office shall forthwith prepare a written notice of such hearing, stating the time, place and purpose thereof, and cause said notice to be served upon the licensee.

Subd. 3. Hearing On Alleged Violations. At the time of the hearing, the licensee may appear and present any evidence which he may deem material to the investigation. If the Council shall find from all the evidence produced that the licensee is guilty of a violation of any of the provisions of this ordinance, other than one which calls for a mandatory revocation, it may suspend or revoke the license held by the licensee under this ordinance. In the event of suspension, the Council shall also suspend any licenses held by the licensee under the non-intoxicating liquor ordinance, and in the event of a revocation the Council shall also revoke any licenses held by the licensee under the non-intoxicating liquor ordinance. No suspension or licenses shall exceed sixty (60) days. The licensee shall be given notice in writing of any such action by the Clerk's Office.

Subd. 4. Mandatory Revocation. The Council shall revoke the license or licenses of any licensee under this ordinance if the licensee willfully violates any provisions of the Minnesota Statutes, Chapter 340A.

Section 2105.26 Violations. A violation of Section 2105.01 through 2105.26 shall be a misdemeanor.