

## Chapter 10 POSSESSION, SALE AND CONSUMPTION OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR<sup>1</sup>

### Sec. 10-1. Adoption of state law by reference.

The provisions of Minn. Stat. ch. § 340A as it may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to license application and renewal, sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor, are hereby adopted by reference and are made a part of chapter 10 of this Code as if set out in full herein. It is the intention of the city council that all future amendments to Minn. Stat. ch. 340A are hereby adopted by this reference as if they had been in existence at the time chapter 10 of this Code is adopted.

(Ord. No. 15-02, § 2, 5-26-2015)

### Sec. 10-2. City may be more restrictive than state law.

The council is authorized by the provisions of Minn. Stat. § 340A.509 as it may be amended from time to time, to impose, and has imposed in this Code, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minn. Stat. ch. 340A as it may be amended from time to time.

(Ord. No. 15-02, § 2, 5-26-2015)

### Sec. 10-3. Definitions.

In addition to the definitions contained in Minn. Stat. § 340A.101 as it may be amended from time to time, the following terms are defined for purposes of this Code:

*Bowling center license* as used in section 10-9(5)c. of this Code means the sale of liquor by the glass or by the drink only in a bowling center deriving at least 50 percent of its gross sales from bowling, having a minimum of 24 bowling lanes with appropriate facilities and seating capacity to serve meals for not less than 30 people.

*Brewer* means any person who manufactures malt liquor for sale.

*Brewery* means a location where malt liquor is manufactured and stored for wholesale distribution in off-sale packages to retail liquor establishments and where malt liquor manufactured on-site may be sold "on-sale" in a taproom or "off-sale" packaged in 64-ounce containers commonly known as "growlers."

*Brewery taproom—On-sale license* as used in section 10-9(10) of this Code means the sale of malt liquor produced by a brewer for consumption on the premises of or adjacent to the brewery location owned by the brewer subject to compliance with the conditions in Minn. Stat. § 340A.26 and the following conditions:

---

<sup>1</sup>Editor's note(s)—Ord. No. 15-02, § 1, adopted May 26, 2015, repealed the former ch. 10, §§ 10-1, 10-2, 10-5, 10-10, 10-19—10-21, 10-30, 10-40, 10-42, 10-43, 10-45—10-51, 10-54—10-57, 10-60, 10-61, 10-70, 10-77, 10-78, 10-80—10-84, § 2 of said ordinance enacted a new ch. 10 as set out herein. The former ch. 10 pertained to alcoholic beverages. See Code Comparative Table for complete legislative history.

- 
- (1) The brewer has been issued a brewer's license per Minn. Stat. § 340A.301, subd. 6(c), (i) or (j).
  - (2) The brewer has not been issued any other on or off-sale brewery taproom licenses under this Code and does not have an ownership interest in any brewpub licensed under this Code or Minn. Stat. § 340A.24.
  - (3) On-site taproom retail sales may not exceed 3,500 barrels annually, 750 barrels of which may be sold off-sale as growlers provided the brewer has also been issued a brewery taproom off-sale license by the city.
  - (4) The brewer must demonstrate the location of the brewery and ancillary taproom is in compliance with all requirements of the city's zoning code.
  - (5) All provisions of chapter 10 of this Code shall be applicable to an on-sale brewery taproom license unless inconsistent with the provisions of this section.

*Brewery taproom—off-sale license* as used in section 10-9(9) of this Code means the off-sale sale of malt liquor produced and packaged by a brewer on the premises of or adjacent to the brewery location owned by the brewer subject to compliance with the conditions in Minn. Stat. § 340A.28 and the following conditions:

- (1) The brewer has been issued a brewer's license per Minn. Stat. § 340A.301, subd. 6(c), (i) or (j).
- (2) The amount of malt liquor sold at off-sale may not exceed 500 barrels annually.
- (3) Sales shall be limited to the restricted hours for "off-sale" establishments set out in Minn. Stat. § 340A.504, subd. 4. as provided in section 10-20 of this Code.
- (4) The malt liquor must be packaged in 64-ounce containers commonly known as "growlers" or in 750 milliliter bottles per Minn. Stat. § 340A.285. The containers or bottles shall bear a twist -type closure, cork, stopper or plug. At the time of sale, a paper or plastic adhesive band, strip or sleeve shall be applied to the container and extended over the top of the twist-type closure, cork, stopper or plug, forming a seal that must be broken upon opening of the container. The adhesive band, strip or sleeve shall bear the name and address of the brewer. The container shall be identified as malt liquor and shall be considered intoxicating liquor unless the alcohol content is labeled otherwise per Minnesota Rules, part 7515.1100.
- (5) A brewer may have only one brewery taproom off-sale license within the city and may not brew annually more than 10,000 barrels of its own brands of malt liquor.

*Brewery taproom—on-sale license* as used in section 10-9(10) of this Code means the sale of malt liquor produced by a brewer for consumption on the premises of or adjacent to the brewery location owned by the brewer subject to compliance with the conditions in Minn. Stat. § 340A.26 and the following conditions:

- (1) The brewer has been issued a brewer's license per Minn. Stat. § 340A.301, subd. 6(c), (i) or (j).
- (2) The brewer has not been issued any other on or off-sale brewery taproom licenses under this Code and does not have an ownership interest in any brewpub licensed under this Code or Minn. Stat. § 340A.24.
- (3) On-site taproom retail sales may not exceed 3,500 barrels annually, 750 barrels of which may be sold off-sale as growlers provided the brewer has also been issued a brewery taproom off-sale license by the city.
- (4) The brewer must demonstrate the location of the brewery and ancillary taproom is in compliance with all requirements of the city's zoning code.
- (5) All provisions of chapter 10 of this Code shall be applicable to an on-sale brewery taproom license unless inconsistent with the provisions of this section.

---

*Brewpub* means a restaurant-brewery that sells 85 percent or more of its malt liquor on-site. The malt liquor is brewed primarily for sale in the restaurant and bar, and may be dispensed directly from the brewery's storage tanks. Brewpubs may also sell malt liquor for off-sale consumption in growler containers.

*Hotel license* as used in section 10-9(5)a. of this Code means and includes any establishment 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 100 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 guest 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 200 guests at one time, where the general public is, in consideration of payment therefor, served meals at tables.

*Liquor* as used in this Code without modification by the words an "intoxicating" or a "3.2 percent malt" includes both intoxicating liquor and 3.2 percent malt liquor.

*Microdistillery cocktail room—on-sale license* as used in section 10-9(11) of this Code means the on-sale sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to compliance with the conditions in Minn. Stat. § 340A.22 and the following conditions:

- (1) The distiller has been issued a microdistillery license under Minn. Stat. § 340A.22.
- (2) The distiller has not been issued any other microdistillery cocktail room license or an on-sale brewery taproom license under Minn. Stat. §§ 340A.22 and 26 and does not have an ownership interest in any distillery licensed under Minn. Stat. § 340A.301, subd. 6(a). A microdistillery cocktail room may not be co-located with a brewery taproom.
- (3) The distiller must demonstrate the location of the microdistillery and ancillary cocktail room is in compliance with all requirements of the city's zoning code.
- (4) All provisions of chapter 10 of this Code shall be applicable to an on-sale microdistillery cocktail room license unless inconsistent with the provisions of this section.

*Microdistillery—off-sale license* as used in section 10-9(12) of this Code means the off-sale sale of distilled liquor produced and packaged by the distiller on the premises of or adjacent to the microdistillery location owned by the distiller subject to compliance with the conditions in Minn. Stat. § 340A.22 and the following conditions:

- (1) The distiller has been issued a microdistillery license under Minn. Stat. § 340A.22.
- (2) The amount of distilled liquor sold at off-sale may not exceed one 375-milliliter bottle per customer per day of product manufactured on site.
- (3) No brand may be sold at the microdistillery unless it is also available for distribution by wholesalers.

*Restaurant license* for purposes of the sale of intoxicating liquors or wine as used in section 10-9(5)b. and (8) of this Code shall have the following described meanings:

- (1) Restaurant, intoxicating liquor. Any 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, meeting the following minimum requirements:
  - a. *Seating capacity.* A restaurant building having appropriate facilities and adequate staff to serve meals at tables and, for seating not less than 30 guests at one time for meals, excluding seating available for food service in the bar area or seating in a lounge or waiting area.
  - b. *Maximum liquor sales.* The sale of intoxicating liquor, wine or 3.2 percent malt beverages shall not exceed 50 percent of the restaurant's gross yearly sales.

- 
- (2) Restaurant, wine. For qualification for issuance of an on-sale wine license a restaurant building must have seating capacity for not less than 25 guests and shall also comply with the maximum sales requirement for a restaurant as defined in subsection (1)b. referenced above.

*School* means any of the following public or private educational facilities: preschools, elementary, junior high or senior high schools.

*Taproom* means a room that is ancillary to the production of malt liquor at a brewery where the public can purchase and/or consume only the malt liquor produced on-site. A taproom may also sell malt liquor for off-sale consumption in growler containers.

(Ord. No. 15-02, § 2, 5-26-2015; Ord. No. 15-21, § 1, 9-28-2015; Ord. No. 20-04, § 1, 1-27-2020)

#### **Sec. 10-4. Nudity on premises of licensed establishment prohibited.**

- (a) *Purpose and authority.* The city council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under chapter 10 of this Code. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The council also finds that the prohibition of nudity on the premises of any establishment licensed under chapter 10 of this Code, as set forth in this section, reflects the prevailing community standards of the city.
- (b) *Bodily exposure.* It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.
- (c) *Criminal sanction.* A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this Code or the imposition of a civil penalty under the provisions of section 10-30(b) of this Code.

(Ord. No. 15-02, § 2, 5-26-2015)

#### **Sec. 10-5. Consumption in public places.**

No person shall mix, consume, serve or display intoxicating liquor, wine or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place or business establishment other than on the premises of an establishment licensed under this Code or where the consumption and display of liquor is lawfully permitted.

(Ord. No. 15-02, § 2, 5-26-2015)

#### **Sec. 10-6. Raffles, silent auctions and fund raising events for charitable purposes of wine, beer or intoxicating liquor.**

No person shall conduct a silent auction, raffle or other fund raising event pursuant to Minn. Stat. § 340A.707 with prizes or awards of wine, beer or intoxicating liquors without notifying the city clerk of the event at least ten days prior to the occurrence of the event. The event holder shall provide the city with the following

---

information: the person or organization holding the event, the day, time and location of the event, type of fund raising event (silent auction, raffle or otherwise), type and amount of wine, beer, intoxicating liquor to be awarded as prizes, and the charitable purposes to which the event proceeds will be donated.

(Ord. No. 15-02, § 2, 5-26-2015; Ord. No. 15-21, § 1, 9-28-2015)

### **Sec. 10-7. Number of licenses which may be issued.**

State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this Code is hereby limited per section 10-2 of this Code as follows:

- (1) *Number of on-sale licenses.* The maximum number of on-sale intoxicating liquor, wine or 3.2 percent malt liquor licenses which may be issued by the city shall be determined by Minn. Stat. § 340A.413, as it may be amended from time to time
- (2) *Number of off-sale licenses.* The maximum number of off-sale intoxicating liquor licenses which shall be issued by the city is four. This limit shall not apply to brewery taproom licenses, brewpub off-sale licenses, microdistillery cocktail room licenses, or microdistillery off-sale licenses. Brewery taproom off-sale licenses and microdistillery off-sale licenses shall be limited to the number of qualifying breweries and microdistilleries, respectively, as defined in section 10-3 of this Code.
- (3) *Increase in on-sale/off-sale intoxicating licenses.* The council in its sound discretion may provide by amendment to this section that a larger number of on-sale or off-sale licenses may be issued up to the number of licenses authorized by Minn. Stat. ch. 340A, as it may be amended from time to time; however, the council is not required to issue the full number of licenses that it has available.

(Ord. No. 15-02, § 2, 5-26-2015; Ord. No. 15-28, § 1, 11-23-2015; Ord. No. 18-03, § 1, 6-25-2018; Ord. No. 19-06, § 1, 9-23-2019; Ord. No. 20-04, § 2, 1-27-2020)

### **Sec. 10-8. Term and expiration of licenses.**

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by this Code. Temporary licenses expire according to their terms.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-9. Kinds of liquor licenses.**

The council may issue the following licenses and permits, up to the number specified in section 10-7 of this Code:

- (1) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs and bowling centers.
- (2) 3.2 percent malt liquor off-sale license.
- (3) Temporary 3.2 percent malt liquor on-sale licenses or temporary on-sale intoxicating liquor licenses in connection with a social event within the city sponsored by the licensee which may be issued only to 1) a club or a charitable, religious, or other nonprofit organization in existence for at least three years, 2) a political committee registered under Minn. Stat. § 10A.14, 3) a state university, or 4) a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year and/or a microdistillery. The following conditions apply to all temporary on-sale liquor licenses:

- 
- a. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies.
  - b. The license may provide the licensee to contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality and a caterer's permit issued by the state.
  - c. The license is subject to all laws and ordinances governing the sale of intoxicating liquor as described in Minn. Stat. § 340A.404.
  - d. The council may issue to a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year or a microdistillery a temporary license for the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the brewer or microdistillery.
- (4) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores. The fee for an off-sale intoxicating liquor license shall not exceed the amount permitted by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time, and as set forth in the city's fee schedule.
  - (5) On-sale intoxicating liquor licenses, which may be issued only to the following establishments as defined by Minn. Stat. § 340A.101, as it may be amended from time to time, and section 10-03 of this Code:
    - a. Hotels;
    - b. Restaurants;
    - c. Bowling centers;
    - d. Theaters;
    - e. Clubs or congressionally chartered veterans organizations. Club licenses may be issued only with the approval of the commissioner of public safety. The fee for club licenses shall not exceed the amounts provided for in Minn. Stat. § 340A.408, subd. 2(b) as it may be amended from time to time.
  - (6) Sunday on-sale licenses, as provided by Minn. Stat. § 340A, may be issued only to a restaurant, bowling center, hotel, brewpub, brewery taproom, or microdistillery cocktail room meeting the definitional requirements of section 10-3 of this Code. The license fees are set forth in the city's fee schedule.
  - (7) On-sale wine licenses, with the approval of the commissioner of public safety, may be issued to restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minn. Stat. § 340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of "restaurant wine" in section 10-3 of this Code. The fee for an on-sale wine license is set forth in the city's fee schedule and shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license or \$2,000.00, whichever is less per Minn. Stat. § 340A.408, subd. 2(c). The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
  - (8) Brewery taproom off-sale license for malt liquor may be issued only to those brewers and breweries meeting the definitional requirements of section 10-3 of this Code.
  - (9) Brewery taproom on-sale license for malt liquor may be issued only to those brewers and breweries meeting the definitional requirements of section 10-3 of this Code.
  - (10) Brewpub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor license, with the approval of the commissioner of public safety, may be issued to brewers who operate a restaurant subject to the same conditions as defined in section 10-3 of this Code in their place of manufacture and who meet the

---

criteria established at Minn. Stat. § 340A.24, as it may be amended from time to time. Sales of malt liquor under this license at on-sale may not exceed 3,500 barrels per year. If a brewpub licensed under this section possesses an off-sale license, the brewpub's total combined retail sales of malt liquor at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels.

- (11) Microdistillery cocktail room on-sale license for intoxicating liquor may be issued only to those distillers and microdistilleries meeting the definitional requirements of section 10-3 of this Code.
- (12) Microdistillery off-sale license for intoxicating liquor may be issued only to those distillers and microdistilleries meeting the definitional requirements of section 10-3 of this Code.

(Ord. No. 15-02, § 2, 5-26-2015; Memo. of 2-5-2018; Ord. No. 18-04, § 1, 7-23-2018; Ord. No. 20-04, § 3, 1-27-2020)

### **Sec. 10-10. License fee; pro rata.**

- (a) No license or other fee for a liquor license established by the city shall exceed any limit established by Minn. Stat. § 340A.408, as it may be amended from time to time.
- (b) The council may establish from time to time, as set forth in the city's fee schedule, the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this Code. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
- (c) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.
- (d) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
- (e) A refund of a pro rata share of an annual license fee may occur only if authorized by Minn. Stat. § 340A.408, subd. 5, as it may be amended from time to time.
- (f) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. § 340A.408 if at the time of initial application or renewal they:
  - (1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
  - (2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;
  - (3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;
  - (4) Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to section 10-23 of this Code.

(Ord. No. 15-02, § 2, 5-26-2015; Memo. of 2-5-2018)

---

## Sec. 10-11. Council discretion to grant or deny license.

The council in its sound discretion may either grant or deny the application for any license or renewal of any license. No applicant has a right to a license under this Code.

(Ord. No. 15-02, § 2, 5-26-2015)

## Sec. 10-12. Application for a license.

- (a) *Form and verification.* Every application for a license issued under this Code shall be on a form provided by the city and required by the commissioner of public safety. No person shall make a false statement in an application.
- (b) *Required information.* In addition to the information which may be required by the commission of public safety's form, or any other information the city council shall require, the application shall contain the following:
- (1) Type of business. Whether the applicant is a natural person, corporation, partnership or other form of organization.
  - (2) License sought. Type of license applicant seeks.
  - (3) For natural person. If the applicant is a natural person, the following information:
    - a. *Name.* True name, including maiden name, if applicable, place and date of birth, and resident street address of applicant.
    - b. *Alias.* Whether applicant has ever used or been known by a name other than his true name and, if so, what was such name, or names, and information concerning dates and places where used, and the reasons for using alternate identification.
    - c. *Business name.* The name of the business if it is to be conducted under a designation, name or style other than the full individual name of the applicant; in such case a copy of the certification, as required by Minn. Stat. ch. 333, certified by the secretary of state, shall be attached to the application.
    - d. *Marital status.* Whether applicant is married or single. If married, name including maiden name, if applicable, place of birth and street residence address of applicant's present spouse. If divorced, the name of applicant's former spouse or spouses and spouse's (their) present resident address(es), if known.
    - e. *Registered voter.* Whether applicant and present spouse are registered voters and, if so, where.
    - f. *Addresses.* Street addresses at which applicant and present spouse have lived during the preceding ten years.
    - g. *Occupational history.* Kind, name and location of business or occupation applicant and present spouse have been engaged in during the preceding ten years.
    - h. *Partners and employers.* Names and addresses of applicant's and spouse's employers and partners, if any, for the preceding ten years.
    - i. *Criminal record.* Whether applicant or applicant's spouse, or a parent, brother, sister or child of either of them, has ever been arrested or convicted of any crime other than minor traffic offenses. If so, the applicant shall furnish information as to the time, place and offense for which

- 
- arrests or convictions occurred, and the final disposition of the same of the court having proper jurisdiction.
- j. *Prior experience.* Whether applicant or applicant's spouse, or a parent, brother, sister or child of either of them has ever been engaged as an employee or in operating a saloon, hotel, restaurant, cafe, tavern or other business of a similar nature. If so, applicant shall furnish information as to the time, place and length of time.
  - k. *Military service.* Whether applicant has ever been in the military service. If so, applicant shall, upon request, exhibit all discharges.
  - l. *Related persons.* The name, address and business address of each person who is engaged in Minnesota or elsewhere in the business of selling, manufacturing or distributing intoxicating liquor and who is nearer of kin to the applicant or applicant's spouse than second cousin, whether of the whole or half blood, computed by the rules of civil law, or who is a brother-in-law or sister-in-law of the applicant or applicant's spouse.
  - m. *Bankruptcy.* Whether or not the applicant has ever petitioned for or been adjudicated a bankrupt.
  - n. *Banking references.* The name of any banking institution in which the applicant has maintained a checking account within the last five years.
- (4) For partnership. If the applicant is a partnership, the names and addresses of all partners, general or limited, and all information concerning each partner as is required of a single applicant in subsection (b)(3) of this section. A managing or general partner, or partners, shall be designated. The interest of each partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application and, if the partnership is required to file a certificate as to a trade name under the provisions of Minn. Stat. ch. 333, a copy of such certificate certified by the secretary of state shall be attached to the application.
- (5) For corporation. If the applicant is a corporation or other organization and is applying for an "on-sale" license, the following:
- a. *Corporate documents.* A certified copy of certificate of incorporation, articles of incorporation or association agreement and by-laws and, if a foreign corporation, a certificate of authority as described in Minn. Stat. ch. 303 from the secretary of state.
  - b. *Responsible party.* The name of the manager or proprietor or other agent in charge of the premises to be licensed, giving all the information about said person as is required of a single applicant in subsection (b)(3) of this section.
  - c. *Relationships.* A list of all persons who, singly or together with their spouse, or a parent, brother, sister or child or other relative, own or control an interest in said corporation or association in excess of five percent or who are officers of said corporation or association, together with their addresses and all information as is required of a single applicant in subsection (b)(3) of this section. If such owners are parent corporations, the same information shall be required of the parent as the applicant.
- (6) Financial investment. The amount of the investment that the applicant has in the business, building, premises, fixtures, furniture, stock in trade, etc., and proof of the sources of such money.
- a. *Debts.* The names and addresses of all persons to whom applicant is indebted, other than debts arising out of the ordinary course of business, for a date 60 days prior to the date of the application; the nature of such indebtedness, amount thereof, terms for payment or other reimbursement. This shall include, but not be limited to, any lessors, mortgagees, lenders, lien

---

holders, trustees; the persons who have cosigned notes or pledged security for any indebtedness of the application.

- b. *References.* The names, residences and business addresses of three persons, residents of Hennepin County, of good moral character, not related to the applicant or financially interested in the premises or business, who may be referred to as the applicant's character or, in the case where information is required of a manager, or general partner, the manager's, or general partner's character.
  - c. *Tax payment.* Whether or not all real estate and personal property taxes for the premises to be licensed which are due and payable have been paid, and if not paid, the years and amounts which are unpaid.
- (7) Federal permit. 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 required, in what name issued and the nature of the permit.
- (8) Sunday sales. An application for a "special license for Sunday liquor sales" may refer to, and incorporate therein by reference, the information maintained in the licensee's application for an "on-sale" license to the extent that such information is current and applicable at the time of such application for a "special license on Sunday liquor sales."
- (c) *Execution of application.* If the application is by a natural person, it shall be signed and sworn to by such person; if by a corporation, by two officers thereof; if by a partnership, by one of the partners, or in any case, its managing partner; if by an incorporated association, by the manager or managing officer thereof. If the applicant is a partnership, the application, license and bond (or insurance policy) shall be made and issued in the name of all partners.
- (d) *Financial responsibility/insurance.* Prior to the issuance of any license under this Code, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stat. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the commissioner of public safety. At the time of filing of the application the applicant shall also provide evidence of liability insurance coverage on an Acord 25 Certificate of Insurance or its equivalent. Said certificate shall specifically indicate the applicant has procured all coverages at minimum policy limits required by this subsection. All policies of insurance shall be conditioned that the insurer shall pay, to the extent of the principal amount of the policy, any damages for death or injury caused by, or resulting from, the negligence of the applicant or from the violation of any law relating to the business for which such license has been granted. Operation of a business which is required to be licensed by this Code without having on file with the city at all times effective proof of financial responsibility and required insurance coverage is a cause for revocation of the license.
- (1) Required coverages. All licensees shall procure the following liability coverages:
- a. *General liability.* Coverage in the comprehensive form which shall include coverage for:
    - 1. Premises operation.
    - 2. Products hazard.
    - 3. Contractual insurance.
    - 4. Broad form property damage.
    - 5. Independent contractors.
    - 6. Personal injury.

- 
- b. *Automobile liability.* Coverage in the comprehensive form including coverage for all owned, hired, or nonowned vehicles used by the licensee.
  - c. *Liquor liability/dram shop.* Coverage for liability imposed on the applicant by Minn. Stat. § 340A.801.
  - d. *Workers compensation insurance.* Coverage for liability imposed by Minn. Stat. ch. 176.
- (2) Minimum policy limits. With the exception of workers compensation coverage, all insurance coverages required by this subsection shall be in a minimum amount of \$300,000.00 per person and \$300,000.00 per occurrence. Said coverages may be written as combined single limits including property damage protection. The policy limits for workers compensation insurance shall be as provided for by state law.
- (3) Insurance not required. Proof of insurance is not required from the following licensees per Minn. Stat. 340A.409, subd. 5, who by affidavit establish that:
- a. They are on-sale 3.2 percent malt liquor licensees with sales of less than \$25,000.00 of 3.2 percent malt liquor for the preceding year;
  - b. They are off-sale 3.2 percent malt liquor licensees with sales of less than \$50,000.00 of 3.2 percent malt liquor for the preceding year;
  - c. They are holders of on-sale wine licenses with sales of less than \$25,000.00 for wine for the preceding year;
  - d. They are holders of temporary wine licenses issued under law; or
  - e. They are wholesalers who donate wine to an organization for a wine tasting conducted under Minn. Stat. § 340A.418 or 340A.419.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-13. Description of the premises.**

The application also shall specifically describe the compact and contiguous premises, including patio if applicable, within which liquor may be dispensed and consumed including the following:

- (1) *Legal description.* The exact legal description of the premises to be licensed together with a plot plan of the area showing dimensions, location of buildings, street access, parking facilities and the locations and distances of the nearest school grounds. The description may not include any parking lot or sidewalk.
- (2) *Location identification.* The floor number and street number where the sale of intoxicating liquors is to be conducted and the rooms where liquor is to be sold or consumed. An applicant for an "on-sale" license shall submit a floor plan of the dining room, or dining rooms, which shall be open to the public, shall show dimensions and shall indicate the number of persons intended to be served in each of said rooms.
- (3) *Plans.* Whenever the application for an "on-sale" license to sell intoxicating liquor, or for a transfer thereof, is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the community development department, no plans need to be filed with the city clerk.

(Ord. No. 15-02, § 2, 5-26-2015; Ord. No. 15-21, § 2, 9-28-2015)

---

### **Sec. 10-14. Application for renewal.**

All on-sale and off-sale liquor licenses shall expire yearly on the last day in December. Applications for the renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license and shall be made in such abbreviated form as the city council may approve. If, in the judgment of the city council, good and sufficient cause is shown by an applicant for his failure to file for a renewal within the time provided, the city council may, if the other provisions of this chapter are complied with, grant the application. At the earliest practicable time after application is made for a renewal of an "on-sale" bowling center, restaurant or brewpub intoxicating liquor license, and in any event prior to the time that the application is approved by the city council, the applicant shall file with the city clerk a statement made by a certified public accountant that shows the total food sales, and in the case of a bowling center the total sales from its bowling operation equals or exceeds 50 percent of its total gross sales for the 12-month period immediately preceding the date for filing renewal applications. A foreign corporation shall file a current certificate of authority. The decision whether or not to renew a license rests within the sound discretion of the city council. No licensee has a right to have the license renewed.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-15. Transfer of license.**

No license issued under this Code may be transferred from person to person or place to place without the approval of the council. Any transfer of existing stock or issuance of new stock of a corporate licensee exceeding five percent of issued shares is deemed to be a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this Code applying to applications for a new license shall apply. 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, but the information required from a corporation shall be filed at the time of incorporation. If the ownership control or interest is changed in any material way, a new license must be applied for, including payment of license fees.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-16. Investigation.**

All applications for a license, except 3.2 percent malt liquor on and off-sale licenses, shall be referred to the director of police, and to such other city departments as the city manager shall deem necessary, for verification and investigation of the facts set forth in the application. The director of police shall make the following investigations and prepare a written report on the information requested in sections 10-12 and 10-13 of this Code within 90 days of the license application date to the city council. The report shall include a list of all violations of federal or state law or municipal code.

- (1) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant. The applicant shall pay with the application a nonrefundable investigation fee of \$500.00 which shall be in addition to any license fee. The results of the preliminary investigation shall be sent to the commissioner of public safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
- (2) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the city manager or director of police, a comprehensive background

---

and financial investigation may be conducted by the council. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500.00, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000.00, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the commissioner of public safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-17. Hearing and issuance.**

The council shall review all facts set out in the application and preliminary or comprehensive background and financial investigations. After the investigation and hearing as set out herein, the council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the commissioner of public safety.

- (1) *Hearing on new application.* Within 20 days after the completion of the police director's written report and recommendation, the city manager shall instruct the city clerk to publish in the official newspaper, a notice of a public hearing to be held by the city council, setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business and such other information as the city manager may direct. The notice shall be published at least ten but not more than 30 days prior to the hearing. The city council shall render a decision, by a majority vote, denying or approving the application, giving the reasons therefor. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license.
- (2) *Renewal hearing.* Not less than ten days nor more than 15 days after the date for submitting renewal applications, the city council shall hold a public hearing. Notice of the time and place of said meeting and consideration and approval of renewal applications shall be published in the official newspaper ten days in advance of the hearing. Opportunity shall be given to any person to be heard for or against the renewal of the license.
- (3) *License to premises.* Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. With the approval of the city council and the commissioner of public safety, a licensee may store excess stocks of intoxicating liquor in places other than the licensed premises. The place of storage shall be located within the city. The location and address of the storage place, the length of time it is proposed to store liquor in such place, the quantity of liquor stored and removal from the storage place shall be reported in writing to the city clerk at least three days prior to the initiation of storage.
- (4) *Notice to state.* The city clerk shall, within ten days after the issuance of any license under this chapter, submit to the commissioner of public safety the full name and address of each person granted a license, the trade name, the effective license date, and the date of expiration of the license. The clerk shall also submit to the commissioner any change of address, transfer, cancellation or revocation of any license by the council during the license period.
- (5) *Certificate of occupancy.* Where a license is granted for premises where the building is under construction or otherwise not ready for occupancy, the city clerk shall not issue the license until notified by the community development director that a certificate of occupancy has been issued and the building is ready for occupancy.

---

(Ord. No. 15-02, § 2, 5-26-2015)

**Sec. 10-18. Restriction on issuance.**

- (a) Each license shall be issued only to the applicant for the premises described in the application.
- (b) Not more than one license shall be directly or indirectly issued within the city to any one person.
- (c) *Unpaid taxes.* No license shall be issued, or renewed, for operation on any premises, on which taxes, assessments or other financial claims of the city or of the state are delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of Minn. Stat. ch. 278, questioning the amount or validity of taxes, the council may, on application by the licensee, waive strict compliance with this provision. No waiver may be granted, however, for taxes, or any portion thereof, which remains unpaid for a period exceeding one year after becoming due.
- (d) No license shall be issued for any place or any business ineligible for a license under state law.
- (e) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this subsection (e) shall not apply to any license existing on the effective date of the adoption of the ordinance implementing this subsection (e) or to the renewal of an existing license.
- (f) *School property.* No license shall be granted for premises located within 500 feet of a school. The distance shall be measured in a straight line from the closest point of the school's parcel or lot line to the closest side of the structure on the premises within which liquor is to be sold. The erection of a school within the prohibited area, after an original application has been granted, shall not render such premises ineligible for renewal of the license.
- (g) *Common building access.* No license shall be granted for any establishment which has a common entrance or exit between any two establishments except that a public concourse or public lobby shall not be construed as a common entrance or exit.

(Ord. No. 15-02, § 2, 5-26-2015; Ord. No. 15-21, § 3, 9-28-2015)

**Sec. 10-19. Conditions of license.**

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met:

- (1) Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the council. Proof of training shall be provided by the licensee.
- (2) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Code and the law equally with the employee.
- (3) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

---

(Supp. No. 57)

Created: 2022-03-15 10:42:35 [EST]

- 
- (4) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
  - (5) Compliance with financial responsibility requirements of state law and of this Code is a continuing condition of any license.
  - (6) Failure by on off-sale intoxicating liquor license who has received a fee reduction pursuant to section 10-10(f) of this Code to abide with the provisions of section 10-10(f).

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-20. Hours and days of sale.**

- (a) The hours of operation and days of sale shall be those set by Minn. Stat. § 340A.504, as it may be amended from time to time, except that the city council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- (b) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premise more than 30 minutes after the time when a sale can legally occur.
- (c) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- (d) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- (e) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-21. Minors on premises.**

- (a) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on-sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on-sale.
- (b) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-22. Restrictions on purchase and consumption.**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the commissioner of public safety under the provisions of Minn. Stat. § 340A.414, as it may be amended from time to time, which has been approved by the council, and no person shall consume liquor in any such place.

(Ord. No. 15-02, § 2, 5-26-2015)

---

## Sec. 10-23. License suspension, revocation or civil fine.

Pursuant to Minn. Stat. § 340A.415, the city council may suspend for up to 60 days or revoke any license issued under chapter 10 of this Code, impose a civil fine not to exceed \$2,000.00, or impose any combination of these sanctions against any licensee for the violation of any applicable state statute, regulation, or section of the New Hope City Code relating to intoxicating liquor, wine or 3.2 percent malt liquor. No suspension, revocation or fine shall take effect until the license holder has been afforded an opportunity for a hearing under the Administrative Procedures Act set out in Minn. Stat. §§ 14.57 through 14.69 and section 1-2 of this Code. The hearing is not required to be conducted before an employee of the office of administrative hearings.

- (1) *Compliance monitoring.* The police department shall conduct unannounced compliance checks at least once each calendar year at each licensed location where alcoholic beverages, both "on-sale" and "off-sale" are sold within the city. Licensees and applicants shall be informed of this policy at the time of license application and renewal. Violators of these regulations may be subject to more frequent compliance monitoring than non-violating licensees. The police department shall make an annual report to the city council on the compliance checks conducted pursuant to this section.
- (2) *Exemption.* Only persons ages 18 through 20 years old may be enlisted to assist in the tests of compliance. The person shall at all times act only under the direct supervision of a law enforcement officer or an employee of the licensing department or in conjunction with an in-house program that has been pre-approved by the police department. A person who purchases or attempts to purchase alcoholic beverages while in this capacity is exempt from the penalties imposed by this section.
- (3) *Presumptive revocation.* The council shall revoke a license on the first violation for the following offenses:
  - a. Commission of a felony related to the license activity.
  - b. Sale of alcoholic beverages while a license is under suspension.
  - c. Sale of intoxicating liquor where the only license is for 3.2 percent malt liquor.
  - d. Violation of the nudity prohibition of section 10-4 of this Code.
- (4) *Proof of financial responsibility.* Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this Code or state law without further action of the council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the clerk, a hearing before the council shall be granted within ten days. Any suspension under this section shall continue until the council determines that the financial responsibility requirements of state law and this Code have again been met.
- (5) *Other sanctions.* The following violations are subject to the sanctions described in subsection (6) of this section. In all cases the council shall select which days a suspension will be served. Other mandatory requirements may be imposed on the licensee, including, but not limited to, meetings with the police department to present a plan of action to assure that problems will not continue, mandatory education sessions involving all employees and employers with the police department or other actions that the city council deems appropriate. On a first or second violation in regards to a sale to a minor or underage person, the licensee may elect training in proper identification procedures in lieu of the license suspension. The license suspension and training requirements shall be governed by and are subject to the conditions set out in subsection 8-7(f)(2)b. of this Code.
  - a. Sale to a minor or underage person;

- 
- b. Sale after or before hours;
  - c. Consumption after hours;
  - d. Illegal gambling, prostitution, adult entertainment on premises;
  - e. Sale to obviously intoxicated persons;
  - f. Sale of liquor that is not permitted by the license;
  - g. Licensee fails to cooperate fully with police in investigating illegal acts upon licensed premises.
- (6) *Fine and license suspension/other sanctions:*
- a. First violation: \$250.00 fine plus three-day license suspension.
  - b. Second violation within 24 months of prior violation: \$750.00 fine plus 15-day license suspension.
  - c. Third violation within 24 months of two prior violations: \$1,500.00 fine plus 30-day license suspension.
  - d. Fourth violation within 24 months of three prior violations: Revocation of license.
  - e. Exception to license suspension. On a first or second violation of subsection (5)a. of this section, a sale to a minor or underage person, the licensee may elect training in proper identification procedures in lieu of the license suspension. The license suspension and training requirements shall be governed by and are subject to the conditions set out in subsection 8-7(f)(2)b. of this Code. The fine is still payable, however.
- (7) The provisions of section 10-30 of this Code pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this Code.

(Ord. No. 15-02, § 2, 5-26-2015)

### **Sec. 10-24. Hearing procedure on suspension or revocation of license.**

Prior to imposing any monetary penalty or license suspension or revocation, the city council shall set an initial appearance at which the licensee must appear before the city council to admit or deny the violation. The city will provide written notice of the appearance to the licensee at least ten days before the appearance, stating the time and place, the alleged violation, and the licensee's opportunity to request a hearing.

- (1) *Admission of violation.* If the licensee admits the violation, the licensee thereby waives its right to a hearing, but will be allowed to explain any mitigating circumstances.
- (2) *Denial and request for hearing.* If the licensee denies the violation, the licensee may request a hearing pursuant to the Administrative Procedure Act as set out in Minn. Stat. §§ 14.57 through 14.69. The city council may at its option conduct the hearing, or may refer the matter to a hearing conducted by another person or body. The hearing shall be held within a reasonable time after a request by the licensee but no later than 30 days after said request.
- (3) *Waiver of hearing.* If a licensee fails to request a hearing at or before the initial appearance, or fails to appear, the licensee will be deemed to have admitted the violation and to have waived its right to a hearing; the city council may then impose sanctions as provided in this section. A licensee may also agree to any sanction without a hearing by providing the city manager with a written hearing waiver and acceptance of sanction.

(Ord. No. 15-02, § 2, 5-26-2015)

---

**Secs. 10-25—10-29. Reserved.**

**Sec. 10-30. Criminal penalties.**

- (a) Any person violating the provisions of this Code or Minn. Stat. ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- (b) The term "violation" as used in section 10-23 includes any and all violations of the provisions in this section, or of Minn. Stat. ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding two-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

(Ord. No. 15-02, § 2, 5-26-2015)