

Chapter 10

ALCOHOLIC BEVERAGES

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Sec. 10-1. Purpose.

The purpose of this chapter is to regulate the sale and consumption of intoxicating liquors, 3.2 percent malt liquors, and wine in order to protect and promote the health, safety and welfare of the citizens of the city.

(Code 072684; Ord. No. 97-9)

Sec. 10-2. Definitions.

Definitions as used in this chapter the following terms shall have the meanings as set out herein (in the event of any conflict with the definitions in chapter 1, the following definitions shall govern the interpretation of this chapter 10):

Beer means any malt beverage with an alcoholic content of more than one half of one percent by volume and not more than 3.2 percent by weight.

Beer store means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

Bona fide club means a club organized for social or business purposes or for intellectual improvement or the promotion of sports, where the serving of beer is incidental to and not the major purpose of the club.

Business establishment. The term "business establishment" as herein used shall not include any place or premises operated under a valid license to sell intoxicating liquors, but shall be construed to mean any room or place or which room or place the public at large is permitted to frequent and is not reserved or designated for any occupancy of a private nature or character.

Exclusive liquor store, off sale means an off sale establishment used exclusively for the sale of intoxicating liquor at retail, and under the control of an individual owner or manager. As an incident thereof, such establishment may also sell ice, all forms of tobacco, 3.2 percent malt beverages and soft drinks at retail. No food shall be sold, unless the establishment also has an "On Sale, Tavern" license, in which case the establishment may also sell all of those items authorized for an "On Sale, Tavern" license.

Hotel 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.

Interest as used in this section includes any interest, pecuniary or otherwise, in the ownership, operation, management or profits of a retail liquor establishment but does not

include bona fide loans; bona fide fixed sum 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 establishment. A person who receives monies from time to time directly or indirectly from a licensee, in the absence of a bona fide consideration therefor and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such retail license. In determining "bona fide" the reasonable value of the goods or things received as consideration for any payment by the licensee and all other facts reasonably tending to prove or disprove the existence of any purposeful scheme or arrangement to evade the prohibitions of this section shall be considered.

Intoxicating liquor means Ethyl alcohol, including distilled, vinous and spirituous, fermented, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight

Liquor means Ethyl alcohol, including distilled, vinous and spirituous, fermented, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Minor means any person under 18 years of age.

3.2 percent malt liquor means any malt beverage with an alcoholic content of more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Off sale means retail sale of liquor in original packages in retail stores for consumption away from the premises where sold.

On sale means sale of liquor by the glass or by the drink for consumption in the dispensary (if any) or in a licensed on sale establishment. The term "on sale" includes either or both of the terms "on sale, restaurant" or "on sale, tavern".

On sale, bowling center means sale of liquor by the glass or by the drink 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 50 people as defined in section 10-3 of this Code.

On sale, restaurant means sale of liquor by the drink for consumption in a restaurant, hotel or bowling alley.

On sale, tavern means sale of liquor by the glass or by the drink in a liquor establishment used exclusively for the sale of intoxicating liquor at retail, and under the control of an individual owner or manager. As an incident thereof, such establishment may also sell ice, all forms of tobacco, 3.2 percent malt beverages, soft drinks and food for consumption at retail.

On sale wine licenses shall mean a license permitting the sale for consumption on the premises only, of wine not exceeding 14 percent alcohol by volume, in conjunction with sale of food.

Original package means the bottle or sealed container in which the liquor is placed by the manufacturer.

Restaurant. The term "restaurant" for purposes of the sale of intoxicating liquors or wine shall have the following described meanings.

- (1) Restaurant, class one. 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 licenses. Any establishment for purposes of qualification for issuance of an on-sale wine license only shall have seating for not less than 25 guests, and shall also comply with the maximum sales requirement for a restaurant as defined in subsection 10-2(1)b. of this Code.

Sell. Includes all barter, gifts and other means of furnishing intoxicating liquor or beer in violation or evasion of this Code, or otherwise.

Sunday liquor sales, special license special license for Sunday sales means a license for sale of liquor by the glass or drink by a hotel, restaurant, bowling center or club between the hours of 12:00 noon and 12:00 midnight on Sundays, in conjunction with the serving of food.

Underage person means any person under 21 years of age.

Wine means a vinospiritous fermented beverage containing 14 percent or less of alcohol by volume.

(Ord. No. 81-6; Code 072684; Ord. No. 83-15; Ord. No. 83-25; Ord. No. 85-25; Ord. No. 85-30; Ord. No. 87-1; Ord. No. 87-14; Ord. No. 89-12; Ord. No. 95-05; Ord. No. 97-9; Ord. No. 2001-13; Ord. No. 10-01, § 1, 1-11-2010)

Secs. 10-3—10-4. Reserved.

Sec. 10-5. Regulation of live entertainment.

(a) *Purpose and authority.* The purpose of regulating live entertainment is to control potential noise sources which can adversely affect and unreasonably endanger the quiet, comfort and enjoyment of residential property, and to prohibit certain acts of commercial exploitation of human sexuality in commercial establishments within the city where intoxicating liquor, wine or beer are served or offered for sale for consumption on the premises and to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace, quiet and good order of the community which may occur when such commercial exploitation is permitted in such places. The authority of the city to regulate such activity is based on the

constitutional power of the state to regulate the sale and use of intoxicating liquor under the twenty-first Amendment to the United States Constitution, delegated by the state to the city by Minn. Stat. ch. 340A.

(b) *Definitions.* For purposes of subsections 10-5(a) through 10-5(d), the following defined terms shall have the meanings given them:

License means an on-sale intoxicating liquor, wine or 3.2 percent malt beverage license.

Licensed premises means the compact and contiguous area of real estate for which an on-sale intoxicating liquor, wine or 3.2 percent malt beverage license is issued.

Nudity means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of a female breast with less than a fully opaque covering of any portion thereof below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For the purposes of this definition, the female breast is considered uncovered if the nipple only or the nipple and the areola are covered.

Sado-masochistic abuse means scenes involving a person or persons, any of whom are nude, clad in undergarments or in sexually-revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering or binding or other physical restraint of any such persons, in an apparent act of sexual stimulation or gratification.

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

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

(c) Prohibited acts. It shall be unlawful for any licensee or any person maintaining, owning, operating, employed at, or performing at a licensed premises, at which alcoholic beverages are offered for sale for consumption on the premises:

- (1) To exhibit or permit to be exhibited any portion of the human body in such a manner as to constitute nudity or in such a manner as would depict sado-masochistic abuse, sexual conduct or sexual excitement.
- (2) To exhibit or permit to be exhibited any films or pictures depicting any acts which are prohibited by subsection 10-5(c)(1).
- (3) To cause or permit to be caused any noise which violates any regulation of subsections 9-42(a) through 9-42(h) of this Code.

(d) Live entertainment license. Any licensed premises employing live entertainers shall be required to obtain a "live entertainment" license and pay a fee for same as prescribed by chapter 14. Before a "live entertainment" license is issued to any licensed premises, a noise impact statement shall be submitted by the applicant for approval to the city noise control officer pursuant to subsection 9-42(f)(4) of this Code.

(Code 072684; Ord. No. 85-25; Ord. No. 97-9)

Secs. 10-6—10-9. Reserved.

Sec. 10-10. Beer licenses.

(a) *License required, beer.* 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 beer within the city without first having received a license as hereinafter provided. Retail licenses shall be of two kinds: "On Sale" and "Off Sale".

- (1) On sale. "On sale" licenses shall be granted only to drug stores, restaurants, hotels, bona fide clubs and establishments for the sale of 3.2 percent malt beverages, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

- (2) Off sale. "Off sale" licenses shall permit the sale of beer at retail in the original package for consumption off the premises only.
- (b) *License fees, beer.*
- (1) Amount—On sale. The annual fees for "beer" licenses are prescribed in chapter 14.
- (2) Refund. No part of the fee paid for any license issued under this Code shall be refunded except when operation of the licensed business ceases not less than one month before expiration of the license because of:
- a. *Destruction of premises.* Destruction or damage of the licensed premises by fire or other catastrophe;
 - b. *Illness.* The licensee's illness;
 - c. *Death.* The licensee's death; or
 - d. *Illegal.* A change in the legal status of the municipality making it unlawful for the licensed business to continue.
 - e. *Time to apply.* Application to the council for refund must be made within 60 days from the happening of one of the foregoing. Refunds shall be made on a pro rata portion of the fee for unexpired period of the license, computed on a monthly basis.
- (3) Pro rata fee. All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.
- (c) *Application for beer license.*
- (1) Form. Every application shall be made on a form supplied by the city and shall state the name of the applicant, his age, representations as to his character with such references as may be required, his citizenship, whether the application is for "on sale", or "off sale", the business in connection with which the proposed license will operate and its location, whether applicant is owner or 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. It shall be unlawful to make any false statement in an application.
- (2) Filing. Applications shall be filed with the clerk. Each application shall be accompanied by cash or cashier's check for payment in full of the required fee for the license. All fees shall be paid into the city general fund. Upon rejection of any application for a license, the clerk shall refund the amount paid.

(d) *Investigation and hearing for beer license.*

(1) Investigation and issuance.

a. *Maximum 60 days.* The council may withhold approval of any application for a beer license for a period of 60 days, for the purpose of having the director of police investigate the information submitted in the application. This period may be shortened or lengthened for good cause. After receiving the report of the director of police, the council may require the applicant to appear further before the council at a public hearing, to be held in accordance with the hearing provisions, below.

b. *Waiver of investigation.* If an investigation and/or hearing is required, the council may grant or refuse a license in its discretion. The council may waive an investigation for cause shown.

(2) *Hearing.* Opportunity shall be given to any person to be heard for or against the granting of the license. Notice of the hearing shall be given by publication once in the official city newspaper, and shall state the date, time and place of the hearing, and the date of the hearing shall be not less than three days subsequent to the date of the publication of the notice, and shall further state the names and addresses of the applicants, the establishment to which it is proposed that the license is issued, and the address where the proposed license shall be used. A hearing shall not be required as to an on sale permit issued to a bona fide club, except upon motion of the city council.

(3) *Renewal.* The same procedure shall apply for the renewal of a license as for the original issuance of the license, except that the requirements for a hearing as specified herein may be waived by the council.

(e) *Transferability of beer license.* Each license shall be issued to the applicant only and shall not be transferable to any other person. Each license shall be issued only for the premises described in the application, and shall not be transferred to another place without the approval of the council. Proof of the right to the possession of the premises for which a license is issued may be required at any time, either during the term of the license or at the time of application or renewal, and lack of evidence satisfactory to the city council of such right to possession of the licensed premises by the licensee, shall be grounds for revocation of the license.

(f) *Persons ineligible for beer license.* No beer license shall be granted to or held by any person who is:

- (1) Underage person. Under 21 years of age.
- (2) Criminal record. A convicted felon, or who has been convicted of violating any law or local ordinance relating to the sale, manufacture or transportation of intoxicating liquors;
- (3) Adverse interest. A manufacturer of beer or one who is interested in the control of any place where beer is manufactured;
- (4) Alien. An alien;

- (5) Reputation. Not of good moral character and repute;
- (6) Federal tax stamp. The holder of a federal retail dealer's special tax stamp for the sale of intoxicating liquor at such place (or becomes said holder during the period of this license); or
- (7) Nonowner or lessor. Not the proprietor of the establishment for which the license is issued.

(g) *Places ineligible for beer license.*

- (1) One year after violation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this Code, or of the state beer or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation.

(h) *Conditions of beer license.* Every beer license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Code and of any other applicable provision of the city or state law.

- (1) Underage person. It shall be unlawful for any:

- a. *Loitering and sale.* Licensee or his employee to sell or serve 3.2 percent malt liquor to any underage person or to permit any underage person to consume 3.2 percent malt liquor on the licensed premises or to permit any underage person to loiter or to remain in the room where 3.2 percent malt liquor is being sold or served unless accompanied by his parent or legal guardian;
- b. *Procure beer for underage person.* Person other than the parent or legal guardian to procure 3.2 percent malt liquor for any underage person;
- c. *Induce underage person.* Person to induce a underage person to purchase or procure 3.2 percent malt liquor;
- d. *Age misrepresentation.* Underage person to misrepresent his age for the purpose of obtaining 3.2 percent malt liquor;
- e. *Consumption by underage person.* Underage person to consume any 3.2 percent malt liquor unless in the company of his parent or guardian.
- f. *Possession by underage person.* Underage person to have in his possession any 3.2 percent malt liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such 3.2 percent malt liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

- (2) Sale to underage person or intoxicated persons. No beer shall be sold to any intoxicated person or to any person under 21 years of age.
- (3) Employment of minors. No minor under 18 shall be employed on the premises of a beer store or be permitted to sell or serve beer in any "on sale" establishment.

- (4) Gambling. No gambling or gambling device shall be permitted on any premises licensed for the sale of beer.
 - (5) Intoxicating liquors on the premises. No licensee who is not also licensed to sell intoxicating liquor shall sell, permit or suffer the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this chapter.
 - (6) Conflicting interests. No manufacturer or wholesaler of beer shall have any ownership or interest in an establishment licensed to sell at retail contrary to the provisions of Minn. Stat. § 340.20. No retail licensee and manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.
 - (7) Federal retail liquor dealer's tax stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.
 - (8) Beer license posted. All licensed premises shall have the license posted in a conspicuous place at all times.
 - (9) On sale, separate rooms. An "on sale" license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not less than six persons.
- (Ord. No. 72-19; Code 072684; Ord. No. 89-12; Ord. No. 97-9)

Sec. 10-19. Hours of operation.

The sale of beer shall be subject to the same restricted hours of operation regulating the sale of intoxicating liquor as set out in subsections 10-54(a) through 10-54(b)(2)d of this Code.
(Ord. No. 99-11)

Sec. 10-20. Bona fide clubs.

No bona fide club shall sell beer except to members and to guests in the company of members.

Sec. 10-21. Restrictions on purchase and consumption of beer.

(a) Age misrepresentation by underage person. No underage person shall misrepresent his age for the purpose of obtaining beer.

(b) **Inducing underage person to buy beer.** No person shall induce an underage person to purchase or procure beer.

(c) **Procuring beer for underage person.** No person other than the parent or legal guardian shall procure beer for any underage person.

(d) **Underage person consuming beer.** No underage person shall have in his possession any beer, with intent to consume same, at a place other than the household of his parent or guardian. Possession of such beer at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the same at a place other than the household of his parent or guardian.

(e) **Consumption and display of intoxicating liquors.** No person shall consume or display any intoxicating liquors on the premises of a licensee who is not also licensed to sell intoxicating liquors.

(Code 072684; Ord. No. 89-12)

Sec. 10-22. Revocation of beer license. Deleted.

(Ord. No. 2000-13)

Secs. 10-23—10-29. Reserved.

Sec. 10-30. Mixing intoxicating liquors.

(a) *Consumption in public place.* No person shall mix, consume or display intoxicating liquors in any place where the public is permitted to frequent which is not operated under a valid license to sell intoxicating liquors.

(b) *Serving or permitting mixing of drinks.* It shall be unlawful for the proprietor of any business establishment as hereinafter defined, his servant, agent or employee to directly or indirectly aid in, or to suffer, or to permit the mixing, blending, consumption or display of intoxicating liquors, or to serve or permit the serving of liquids for the purpose of mixing or blending the same with intoxicating liquors to be consumed at such establishment.

Secs. 10-31—10-39. Reserved.

Sec. 10-40. Intoxicating liquors.

(a) *License required, intoxicating liquor.* 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 intoxicating liquor within the city without first having received a license as hereinafter provided. Retail licenses shall be as follows:

(1) **Number of on sale licenses.** The maximum number of on sale intoxicating liquor licenses which shall be issued by the city is six. On sale wine licenses shall be limited to the number of qualifying restaurants as defined in section 10-2.

a. *Prohibition of "on sale, tavern" license.* Effective November 28, 1985, no "on sale, tavern" license shall be issued by the city except to renew the license of a licensee holding such a license on said date.

- b. *Relocation of "on sale, tavern" license prohibited.* Existing "on sale, tavern" licenses under subsection (1) of this section may not be relocated to any new location within the city. Except for the licensed premises presently holding an "on sale, tavern" license, there are no suitable locations in the city for "on sale, tavern" licenses.
- (2) Number of off sale licenses. The maximum number of off sale licenses which shall be issued by the city is seven.
- (3) Liquor license required. No person, except wholesalers or manufacturers to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor as defined in section 10-2, without first having received a license to do so as provided in this chapter.
- (4) Kinds of licenses. The city shall issue the following types of licenses as defined by this Code:
- a. On sale restaurant, class one;
 - b. On sale bowling center;
 - c. On sale restaurant, wine;
 - d. On sale, tavern;
 - e. Special license for Sunday liquor;
 - f. Off sale.
- (5) "On sale, restaurant" licenses. On sale restaurant licenses may be issued only to those establishments meeting the definitional requirements for a restaurant as set forth in section 10-2 of this Code. A hotel as defined by Minn. Stat. § 340A.101, subd. 13 may also be issued an on sale restaurant, class one license under this section.
- (6) "On sale, tavern" licenses. On sale, tavern licenses shall be issued only to an exclusive liquor store used as an on sale establishment for the sale of intoxicating liquor at retail as defined in section 10-2.
- (7) "Special license for Sunday sales". Special license for Sunday sales shall be issued only to establishments holding an on sale license meeting the definitional requirements of section 10-2 of this Code. The Sunday license shall be effective only if food is served in conjunction with the service of alcoholic beverages.
- (8) "Off sale" liquor licenses. Off sale liquor licenses shall be issued only to "exclusive liquor stores, off sale". An off sale license may be issued to the holder of an "on sale, tavern" license if, in the judgment of the city council, the physical facilities of the establishment are suitable for the combined on sale and off sale operation.
- (9) "On sale wine license". On sale wine licenses shall be issued only to restaurants seating 25 or more guests.

- (10) "On sale bowling center licenses". On sale, bowling center licenses shall be issued only to those bowling centers meeting the definitional requirements of section 10-2 of this Code.

(Ord. No. 77-21; Ord. No. 82-2; Code 072684; Ord. No. 85-25; Ord. No. 85-26; Ord. No. 87-14; Ord. No. 89-5; Ord. No. 95-05; Ord. No. 2001-13; Ord. No. 08-04, § 1, 4-28-2008; Ord. No. 2009-01, § 1, 3-9-2009; Ord. No. 09-09, § 1, 7-27-2009; Ord. No. 10-01, § 2, 1-11-2010)

Sec. 10-41. Reserved.

Sec. 10-42. Verifications of applications.

The truth of all statements made in every application for a license to sell intoxicating liquor shall be sworn to before a notary public or other officer authorized to take an oath, and filed with the city clerk.

Sec. 10-43. Contents of application.

In addition to the information which may be required by the state control commissioner'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 street resident 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 his former spouse or spouses and her (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 his 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 his 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 his 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 his 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 10-43(3)c. 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. *Certified copies.*
 - 1. 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.

2. **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 10-43(3)c.
 3. **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 10-43(3)c. If such owners are parent corporations, the same information shall be required of the parent as the applicant.
- (6) **Premises.** 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 church building and school grounds.
- a. *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.
 - b. *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 director of protective inspections, no plans need to be filed with the city clerk.
- (7) **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.
- (8) 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.
- (9) Sunday sales. An application of 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".

Sec. 10-44. Reserved.

(Ord. No. 072684)

Sec. 10-45. Renewal applications.

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" 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 gross sales, the total food sales, and in the case of a bowling center the total sales from its bowling operation for the twelve-month period immediately preceding the date for filing renewal applications. A foreign corporation shall file a current certificate of authority.

(Code 072684; Ord. No. 87-1, Ord. No. 87-14)

Sec. 10-46. 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.

Sec. 10-47. License fee.

- (a) *Fee amount.* The annual license fee shall be in an amount prescribed in chapter 14.

(b) *When fee payable.* The initial license fee shall be due and payable in full within 90 days of approval of the application by the city council or issuance of a certificate of occupancy whichever is sooner. All subsequent license renewal fees shall be paid at the time the yearly license renewal application is submitted by the licensee pursuant to subsection 10-47(e) of this Code. All fees shall be paid into the general fund and shall not be refunded once a license is issued. No license shall be issued until the fee is paid in full.

(c) *Prorating of fees.* The fee for an "on sale" license granted after the commencement of the license year shall be pro rated on a monthly basis. A "special license for Sunday liquor sales" shall be pro rated on a quarterly basis. The pro rata determination shall include the month or quarter in which the application is approved by the city council.

(d) *Incomplete building.* When the license is for premises and when the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety days after approval of the license by the city council or upon the date the certificate of occupancy is issued, whichever is sooner.

(e) *Transfer of license.* No transfer of a license shall be permitted from place to place or person to person without complying with the requirements of an original application except as provided by subsection 10-47(i) and except where a new application is filed for transfer of license from place to place and is for premises where the building was not ready for occupancy at the time of the original application and the new application is filed within 90 days after approval of the original license by the city council but before a certificate of occupancy for the original location has been issued, no additional license fee is required and the investigating fee shall be as specified in subsection 10-47(h).

(f) *Fee nonrefundable.* No part of the fee paid for any license shall be refunded.

(g) *Investigation fee.* At the time of each original application for a license, except in the case of a "special license for Sunday liquor sales," and except as provided in subsection 10-47(e) of this section, the applicant shall pay an initial investigation fee as prescribed in chapter 14. No part of this fee shall be refundable. If investigation is required or deemed desirable outside the state of minnesota, the applicant shall pay an additional fee as prescribed in chapter 14.

(h) *Additional investigation fee.* At any time that an additional investigation is required because of a change in the ownership or control of a corporation or because of an enlargement, alteration, or extension of premises previously licensed, or because of a transfer from place to place which transfer comes within the exception expressed in subsection 10-47(e) the licensee shall pay an additional investigation fee as prescribed in chapter 14 which shall not be refundable except to the extent that the city does not incur investigation costs in a like amount, in which case the balance, as determined by the city manager, shall be refundable. If investigation is required or deemed desirable outside the state of minnesota, the applicant shall pay an additional fee for outside of state investigation as prescribed in chapter 14.

(i) *Subsequent incorporation.* 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 of a corporation shall be filed at the time of incorporation. If the ownership control or interest is changed in any but an immaterial way, a new license must be applied for, including fees.

(Code 072684; Ord. No. 87-1; Ord. No. 97-27)

Sec. 10-48. Granting of licenses.

(a) Reserved.

(b) *Investigation.* All applications for a license 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 an investigation and prepare a written report on the information requested in subsection 10-43, 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 ordinance.

(c) *Hearing.* 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. This notice shall also be posted in at least four conspicuous places throughout the city at least seven days in advance of the hearing. 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.

(d) *Council 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 granting of the license. A license, other than a renewal, shall not be approved before the next regular meeting of the city council following such hearing.

(e) *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 state liquor control commissioner, 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.

(f) *License transfer.* No license may be transferred to another person or to another place without complying with the requirements of an original application including the approval of the city council as required, except as provided by subsections 10-47(e) and 10-47(i).

(g) *Notice to state.* The city clerk shall, within ten days after the issuance of any license under this chapter, submit to the state liquor control commissioner 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. He shall also submit to said commissioner any change of address, transfer, cancellation or revocation of any license by the council during the license period.

(h) *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 director of protective inspections that a certificate of occupancy has been issued and the building is ready for occupancy.

(Ord. No. 99-11)

Sec. 10-49. Persons ineligible for license.

The following persons are ineligible for the issuance or renewal of an intoxicating liquor license:

- (1) **State prohibition.** No license shall be issued to a person not eligible for the same under state law, Minn. Stat. ch. 340A.
- (2) **Interest in other establishments.** Who is directly or indirectly interested in any other establishment in the city to which an intoxicating liquor license has been issued under this chapter; no intoxicating liquor license shall be granted to any person if such person or any person who owns an interest in the establishment or business for which an intoxicating liquor license application is being filed owns an interest in a business or establishment licensed under this chapter.
- (3) **Ineligible manager.** Who, if a corporation, has a manager who would not be eligible for a license pursuant to the provisions of this section.
- (4) **Spouse of ineligible person.** Who is the spouse of a person ineligible for a license.
- (5) **Not real party in interest.** A person who in the judgment of the city council is not the real party in interest or beneficial owner of the business operated or to be operated under the license.
- (6) **Residency, metropolitan.** An intoxicating liquor license will not be issued or renewed in the case of an individual licensee who is not a resident of the seven county metropolitan area as defined by Minn. Stat. § 473.121. The same restriction applies to the managing or general partner of a partnership licensee, or in the case of a corporation, the same residency rule applies to the person to whom the corporation has committed the management, general conduct and control of the affairs of the establishment.

- (7) Management of multiple licenses. The individual, managing partner, or corporate manager of a licensee shall not qualify for issuance or continuance of a license under this chapter, if more than one liquor license in the city is involved.

(Ord. No. 77-21; Ord. No. 10-01, § 2, 1-11-2010)

Sec. 10-50. Places ineligible for license.

(a) *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 remain unpaid for a period exceeding one year after becoming due.

(b) *School or church property.* No "on sale" license shall be granted for premises located within 500 feet of a public school or of any church. In the case of a school, the distance is to be measured in a straight line from the parcel or lot upon which the business to be licensed is located. In the case of a church, the distance shall be measured in the same manner as above set forth, except it is to be measured to the nearest point of the church building. The erection of a public school or church within the prohibited area, after an original application has been granted, shall not render such premises ineligible for renewal of the license.

(c) *Ineligible person as owner or lessor.* No license shall be issued for premises owned, leased or rented by a person to whom a license may not be granted under this chapter.

(d) *Common building access.* No license shall be granted for any place 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. 75-11)

Sec. 10-51. Conditions of license.

(a) *Applicable laws.* Every license shall be granted subject to the conditions of the following subsections and all other provisions of this chapter, and of any other applicable provisions of the City Code or state law.

(b) *Posting of license.* The license shall be posted in a conspicuous place in the licensed establishment at all times.

(c) *Licensee responsible.* Every licensee shall be responsible for the conduct of his place of business, the acts of his employees and the conditions of sobriety and order in the place of business and on the premises.

(d) *Area of license.* No license shall be effective beyond the boundaries of the physical location described in the application or the license for which it was granted.

(e) *Prohibited sales.* No intoxicating liquor shall be sold or furnished or delivered to anyone who, by his physical appearance and mannerisms, appears to be in a state of intoxication, to any habitual drunkard, to any person under 21 years of age, or to any person to whom sale is prohibited by state law.

(f) *Employment of minors.* No person under 18 years of age shall be employed in a room where on sales are made unless accompanied by his parent or guardian or employed to perform duties of a busboy or dishwashing services or when employed as a musician.

(g) *Gambling.* No licensee shall keep, possess, or operate or permit the keeping, possession, or operation of any slot machine, dice, or any gambling device or apparatus on the licensed premises, and he shall not permit any gambling therein. This section shall not prohibit the conduct of charitable gambling on the licensed premises as defined and regulated by Minn. Stat. ch. 349 and a licensee may lease a portion of the licensed premises for charitable gambling to any qualified organization that can obtain a charitable gambling license pursuant to state law.

(h) *Prostitution.* No licensee shall knowingly permit the licensed premises or any room in those premises or any adjoining building directly or indirectly under his control to be used as a resort for prostitutes.

(i) *Distillers and manufacturers ownership.* No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor except such as shall be expressly permitted by state law.

(j) *Right of inspection.* Any police officer, building inspector or any properly designated officer or employee of the city shall have right to inspect the premises of the licensee during business hours for the purpose of enforcing the provisions of this chapter and other provisions of the City Code.

(k) *Refilling of containers.* No licensee shall sell, offer for sale, or keep for sale, intoxicating liquors in any original package which has been refilled or partly refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package.

(l) *Display of liquor.* No "on sale" liquor establishment shall display to the public during hours when sale of liquors is prohibited by this chapter.

(m) *Federal gambling or liquor dealers stamps.* No licensee shall apply for or possess a federal wholesale liquors dealers special tax stamp or a federal gambling stamp.

(n) *Alcohol and neutral spirits.* No licensee shall keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.

(o) *Records of licensee.* The business records of the licensee, including federal and state tax returns, shall be available for inspection by the city manager, or other duly authorized representative of the city or the city council at all reasonable times and upon reasonable notice being given therefor.

(p) *Ownership changes.* Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws or partnership agreement, as the case may be, shall be submitted to the city clerk within 30 days after such changes were made. Notwithstanding the definition of interest as given in section 10-2, in the case of a corporation, the licensee shall notify the city clerk when a person not listed in the application acquired an ownership interest, capital stock or otherwise which, together with that of his spouse, parent, brother, sister or child, exceeds five percent of the total, and shall give all information about said person as is required of a person pursuant to the provisions of subsection 10-43. If the ownership control or interest is changed in any but an immaterial way, a new license must be applied for, including fees.

(q) *Political contribution.* At the time a licensee submits his application for renewal of a license, he shall state the nature or amount of any contribution he has made for campaign or political purposes, the person to whom the contribution was made and the person or organization for whom intended.

(r) *Principal business.* A restaurant shall be conducted in such a manner that a principal part of the business for a license is the serving of foods. A hotel shall be conducted in such a manner that, of that part of the total business attributable to or derived from the serving of foods and intoxicating liquors, the principal part of the business for a license year is the serving of foods. Provided, however, that a bowling center which qualified for a license under section 10-2 shall have as a principal part of its business for the year the operation of the bowling lanes.

(s) *Sunday liquor and food.* No "special license for Sunday liquor sales" licensee shall serve liquor on Sunday except in conjunction with the serving of food.

(t) *Gross sales certification.* At the time of application for renewal of an on sale, restaurant license, the applicant shall submit a statement from a certified public accountant to the city that not more than 50 percent of the gross sales of the establishment, for which the on sale license is to be used, is in the serving of intoxicating liquor, wine or 3.2 percent malt beverages. The applicant for an on sale bowling center license must submit a statement from a certified public accountant that 50 percent or more of its gross sales is derived exclusively from the operation of the bowling lanes. The statements required by this section shall also indicate all applicant's total gross sales, alcoholic beverage and food sales. The applicant for an on sale tavern license shall also submit a statement indicating its gross sales, food sales and alcoholic beverage sales but it shall not be required to meet the percentage requirements of this section. (Ord. No. 74-20; Ord. No. 76-20; Ord. No. 81-86; Ord. No. 82-8; Code 072684; Ord. No. 85-25; Ord. No. 85-30; Ord. No. 87-14; Ord. No. 88-7; Ord. No. 89-12; Ord. No. 97-9)

Secs. 10-52, 10-53. Reserved.

Sec. 10-54. Restricted hours of operation.

(a) *Definition.* Restricted hours of operation as used herein shall mean the times when no sales or serving of intoxicating liquor shall be made in any intoxicating liquor establishment in the city.

(b) *Hours*. Restricted hours of operation shall be as follows:

- (1) Restricted hours for "on sale" intoxicating liquor establishments.
 - a. Monday through Saturday no sales between 2:00 a.m. and 8:00 a.m.
 - b. Sunday no sales after 2:00 a.m., except establishments having a "Special license for Sunday liquor sales" may sell between the hours of 10:00 a.m. Sunday and 2:00 a.m. Monday.
 - c. Holidays no sales between 8:00 p.m. on December 24 and 8:00 a.m. on December 25.
- (2) Restricted hours for "off sale" establishments.
 - a. Sunday no off sale.
 - b. Monday through Saturday no off sale before 8:00 a.m. and after 10:00 p.m.
 - c. Reserved.
 - d. Holidays no off sales on Thanksgiving Day and Christmas Day or after 8:00 p.m. on December 24.

(Ord. No. 78-20; Code 072684; Ord. No. 84-10; Ord. No. 89-22; Ord. No. 91-21; Ord. No. 06-01, § 1, 1-23-2006; Ord. No. 07-06, § 1, 2-26-2007)

Sec. 10-55. Public character of liquor sales.

No sale of intoxicating liquor shall be made to or in guest rooms of hotels, unless the rules of such hotel provide for the service of meals in guest rooms; nor unless the sale of such intoxicating liquor is made in the manner "on sale" are required to be made; not unless such sale accompanies and is incident to the regular service of meal to guests therein; nor unless the rules of such hotel and the description, location and number of such guests rooms are fully set out in the application for a license.

(Code 072684)

Sec. 10-56. Restrictions involving underage person.

In addition to the provisions of subsection 10-10(h) as to beer sales to underage persons, the following restrictions apply to underage persons and intoxicating liquors:

- (1) *Serving to and consumption by underage person*. No licensee, his agent, or employee shall serve or dispense upon the license demises any intoxicating liquor or 3.2 percent malt liquors to any person under the age of 21 years; nor shall such licensee, his agent, or employee permit any person under the age of 21 years to be furnished or consume any such liquors on the licensed premises.

- (2) *Delivery underage person.* No licensee, his agent, or employee shall permit any person under the age of 21 years to be delivered any such liquors, nor shall any person under the age of 21 years receive delivery of intoxicating liquor.
 - (3) *Age misrepresentation.* No person under 21 years of age shall misrepresent his age for the purpose of obtaining intoxicating liquor or 3.2 percent malt liquor nor shall he enter any premises licensed for the retail sale of intoxicating liquor or 3.2 percent malt liquor for the purpose of purchasing or having served or delivered to him for consuming any such intoxicating liquor or beer nor shall any such person purchase, attempt to purchase, consume, or have another person purchase for him any intoxicating liquor or beer.
 - (4) *Purchase by underage person for another.* No person shall induce a person under the age of 21 years to purchase or procure or obtain intoxicating liquor or 3.2 percent malt liquor.
 - (5) *Identification production.* Any person who may appear to the licensee, his employees or agents to be under the age of 21 years shall, upon demand of the licensee, his employee or agent, produce and permit to be examined suitable identification as to his or her age. Proof of age for purposes of consuming, purchasing, or possessing an alcoholic beverage, the consumption, sale, or possession of which is regulated by age, may only be established by a valid driver's license or a current Minnesota identification card as described in nondriver age identification, below. In the case of a foreign national, a valid passport may be used as an alternative to the foregoing methods of identification.
 - (6) *Nondriver age identification.* In lieu of a drivers license or passport, a person may produce a current minnesota identification card issued by the Minnesota Commissioner of Public Safety.
- (Ord. No. 76-20; Code 072684; Ord. No. 89-12; Ord. No. 97-9)

Sec. 10-57. Insurance.

(a) *Approval of insurance.* The insurance policies required by subsection 10-57(c) shall be subject to the approval of the city council and city attorney.

(b) *Insurance companies.* The surety on such liability insurance policy, shall be an insurance company duly licensed to do business in the state, and the liability insurance policy shall be approved as to form and execution by the city attorney. All approved liability insurance policies shall be deposited with the city clerk.

(c) *Amount and terms of insurance.* At the time of filing of the application the licensee shall provide evidence of liability insurance coverage on an Accord 25 Certificate of Insurance or its equivalent. Said certificate shall specifically indicate the licensee 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 licensee or from the violation of any law relating to the business for which such license has been granted.

- (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 licensee 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) Notice provisions upon cancellation. All liability insurance required by this subsection may not be canceled by either the licensee or his insurance company without first giving ten days' notice to the city in writing of the intention to cancel, addressed to the City Manager at the City Hall, 4401 Xylon Avenue North, New Hope, Minnesota 55428.

(Code 072684; Ord. No. 86-8; 2; Ord. No. 87-1; Ord. No. 87-14; Ord. No. 90-1)

Secs. 10-58, 10-59. Reserved.

Sec. 10-60. Enlargement, alterations or extension of premises.

Proposed enlargement, alteration or extension of premises previously licensed shall be reported to the city clerk at or before the time application is made for a building permit for any such change and the licensee shall also give such information as is required by subsections 10-43(6)a, 10-43(7)a.b., and 10-43(8).

(Code 072684)

Sec. 10-61. State statutes incorporated by reference.

The provisions of Minn. Stat. 340A relating to the matters of retail sale, distribution and consumption of intoxicating liquors are also adopted and made a part of this section as if fully set out herein, except where greater restrictions are set forth herein, in which event, the greater restrictions of this chapter shall apply, as provided by Minn. Stat. § 340A.509. (Code 072684; Ord. No. 87-1)

Secs. 10-62—10-69. Reserved.**Sec. 10-70. Wine licenses.**

(a) *License required.* In addition to any other provision of this chapter, any person owning and operating a restaurant shall be eligible for the issuance of a license for the on sale consumption of wines.

(b) *Application required.* No license shall issue under this section until the applicant has provided the information required by subsection 10-43, unless such information has already been provided pursuant to the application for a license under said section. The council may in its discretion, require that the applicant furnish additional or current information if it feels that the same is reasonably necessary to adequately consider the merits of the application. All applications shall be made on forms approved by the city manager.

(c) *Investigation and granting of licenses.* All applications made under this section shall be investigated in the manner provided in subsection 10-47(g), unless modified or waived by the council because the applicant is already licensed pursuant to subsection 10-40(a).

(d) *Renewal licenses.* Applications for renewal of licenses under this section shall be made in conjunction with any license issued to the person and shall be subject to the same requirements applicable to renewal of any other license held by the licensee.

(e) *Sunday sales.* Regardless of the provisions of any other section of this Code, Sunday sales of wines shall be permitted only if the licensee obtains a special license for Sunday sales.

(f) *Fees.*

(1) *Amount.* The annual fee for a wine license shall be as prescribed in chapter 14.

(2) *Payment.* The payment of the initial license fee shall be made within 60 days after approval of the application by the city council or the issuance of the certificate of occupancy, whichever occurs first. All subsequent license renewal fees shall be paid at the time the yearly license renewal application is submitted by the licensee pursuant to subsection 10-45 of this Code. All license fees shall be paid into the general fund and shall not be refundable. No license shall be issued until the fee is paid in full.

(3) *Prorating of fees.* The initial fee for a license shall be prorated on a monthly basis, including the month in which the application is approved.

(Ord. No. 76-2; Code 072684; Ord. No. 87-1)

Secs. 10-71—10-76. Reserved.**Sec. 10-77. Applicability of other provisions of this chapter.**

All other provisions of sections 10-40 through 10-61 for the sale of intoxicating liquor are determined to be applicable to this section pertaining to on sale wine licenses.

(Ord. No. 82-2)

Sec. 10-78. Sale of intoxicating malt liquor.

An on-sale wine licensee who also is licensed for on-sale 3.2 percent malt liquor under section 10-10 of this Code and whose gross receipts are at least 60 percent attributable to the sale of food may also sell intoxicating malt liquor without any additional licenses.

(Ord. No. 90-10; Ord. No. 97-9)

Sec. 10-79. Reserved.**Sec. 10-80. License revocation, suspension 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 alcoholic beverages. 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 nonviolating 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.

(Ord. No. 02-08, § 1, 8-12-2002)

Sec. 10-81. Presumptive revocation.

The council shall revoke a license on the first violation for the following offenses:

- (1) Commission of a felony related to the license activity.
- (2) Sale of alcoholic beverages while a license is under suspension.

Sec. 10-82. Other sanctions.

The following violations are subject to the sanctions described in the matrix following 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 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 three-day license suspension. The training shall be governed by and is subject to the conditions set out in subsection 8-7(f)(2)(b) of this Code.

- (1) Sale to a minor or underage person;
- (2) Sale after or before hours;
- (3) Consumption after hours;
- (4) Illegal gambling, prostitution, adult entertainment on premises;
- (5) Sale to obviously intoxicated persons;
- (6) Sale of liquor that is not permitted by the license;
- (7) Licensee fails to cooperate fully with police in investigating illegal acts upon licensed premises.

Fine and license suspension

<i>1st Violation</i>	<i>2nd Violation (within 24 months of a prior violation)</i>	<i>3rd Violation (within 24 months of two prior violations)</i>	<i>4th Violation (within 24 months of three prior violations)</i>
\$250.00	\$500.00 plus	\$1,000.00 plus	Revocation
3 days suspension	5 days suspension	10 days suspension	
(Ord. No. 2000-05; Ord. No. 05-11, § 2, 9-12-2005)			

Sec. 10-83. Hearing procedure.

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, it may request a hearing pursuant to the Administrative Procedure Act as set out in Minn. Stat. §§ 14.57 through 14.69. The 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.

Sec. 10-84. Criminal sanctions.

The imposition of civil sanctions under this section does not preclude the city from seeking other criminal, equitable or legal remedies for the violations described in this section or any other conduct in violation of any applicable ordinances, statutes or laws.

(Ord. No. 2000-03)

- (2) *Hood and duct inspection fee.* The fee amount for hood and duct inspection as required by Minnesota State Fire Code is \$50.00 per inspection.
 - (3) *Fire detection and alarm system installation permit fees.* Fees for installation of fire detection and alarm system permits or any alterations thereof as required by subsection 9-7(b) are as follows:
 - a. Fee amount. \$50.00 plus \$5.00 per \$500.00 valuation of proposed system or fractional part thereof, in excess of \$1,000.00.
 - b. State surcharge. The Minnesota State Building Code also imposes a surcharge which shall be collected in addition to the foregoing fees of this subdivision.
 - (4) *Burning permit fee, unwanted structure.* The fee amount for a burning permit for an unwanted structure as required by subsection 9-9(a) is \$500.00.
 - (5) *New material, processes permit fees.* The fee amounts for permits for new materials or processes as required by subsection 9-9(b) are to be determined by a committee of the mayor, director, and fire marshal.
 - (6) *Open burning permits.* Fees for open burning permits as required by subsection 9-9(c) are as follows:
 - a. Recreational. There is no fee for an open burning permit for recreational purposes.
 - b. Thawing. The fee amount for each burning permit for the purpose of thawing frozen ground is \$25.00.
 - (7) *Fire control costs.* The fee for fire control costs applicable to nonresidents or nontaxpayers as required by subsection 9-9(e) or persons issued open burning permits required by subsection 9-9(c) of this Code is the full amount of expenses incurred by city.
 - (8) *Fire suppression permit fees.* Fee amounts for the fire suppression permits for sprinkler and standpipe installations or any alterations thereto as required in subsection 3-1(a) are as follows:
 - a. First \$1,000.00 in value or fraction thereof \$50.00
 - b. Each additional \$500.00 in value or fraction thereof 5.00
- (Ord. No. 76-7; Ord. No. 82-19; Code 072684; Ord. No. 84-4; Ord. No. 88-4; Ord. No. 89-23; Ord. No. 91-5; Ord. No. 92-02; Ord. No. 94-21; Ord. No. 97-5; Ord. No. 03-09, § 25, 5-27-2003)

→ **Sec. 14-12. Intoxicating and 3.2 percent liquor license fees.**

The permits and fees required by various provisions of chapter 10 are as set forth below.

- (1) *3.2 percent beer license fees.* The fee amounts for 3.2 percent beer licenses as required by subsection 10-10(b) are as follows, annually:
 - a. On-sale:
 - 1. Regular \$500.00

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- 2. Bona fide club 10.00
- b. Off-sale:..... 100.00

→ (2) *Intoxicating liquor license fees.* The fee amounts for intoxicating liquor licenses as required by subsection 10-40(g) are as follows, annually:

- a. On-sale restaurant and bowling center \$6,000.00
 - b. On-sale tavern 6,000.00
 - c. Off-sale 380.00
- per Minn. Stat. § 340A.408 subd. 3(c)

This fee shall be reduced to \$280.00 if the licensee meets the following conditions:

- 1. The licensee agrees to have a city approved private vendor 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. The licensee agrees to post a policy requiring identification checks for all persons appearing to be 30 years old or less; and
- 3. A cash award and incentive program is established by the licensee, to award employees who catch underage drinkers, and a penalty program is established to punish employees in the event of a failed compliance check.

- d. Sunday sales 200.00

(3) *License investigation fee.* The fee amounts for both initial and additional license investigations as required by subsection 10-47(g) of this Code and Minn. Stat. § 340A.412(2) are as follows:

- a. Within state..... \$500.00
- b. Outside of state-actual cost not to exceed \$10,000.00 or \$500.00 whichever is greater

(4) *Reserved.*

(5) *Wine license fees.* The fee amounts for wine licenses as required by subsection 10-70(f) are as follows, annually:

- a. Regular \$2,000.00
- b. Sunday sales 200.00

(6) *Live entertainment license fee.* The fee amount for a live entertainment license required by subsection 10-5(d) shall be \$125.00 annually.

(Code 072684; Ord. No. 85-31; Ord. No. 88-1; Ord. No. 88-4; Ord. No. 97-9; Ord. No. 97-27; Ord. No. 2001-13; Ord. No. 08-07, § 1, 11-24-2008)