

**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)