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Part I. Introduction

This memo discusses the statutory authority cities have to regulate and license the sale of liquor. The memo outlines the following:

- The different types of liquor licenses and what they allow.
- The different types of liquor elections.
- The criteria applicants and their establishments must meet for the various types of licenses.
- The liquor licensing procedure.
- General state and local regulations imposed on liquor license holders.
- Insurance and liability concerns that can arise when cities deal with liquor.

This document only briefly addresses the topic of municipal liquor stores. Contact the League's Research & Information Services or the Minnesota Municipal Beverage Association (MMBA) for additional information on municipal liquor stores.

State law generally gives cities the authority to license and regulate the retail sale of intoxicating liquor if the city is not prohibited by previous local option election results. Sales by manufacturers and distributors at wholesale are generally licensed and regulated by the state. State statute regulates many aspects of local liquor licensing, though a local authority may, in some instances, supplement state statute with stricter standards via a local ordinance. Cities and liquor licensees are subject to additional regulation found in the Minnesota Rules 7515 et al.

The Alcohol and Gambling Enforcement Division of the Department of Public Safety is responsible for interpreting the state laws and regulations concerning liquor licensing and sales. License application forms and additional information are available from their office and on their web site.

A. Liquor licensing in general

Cities should adopt an ordinance to license and regulate retail liquor sales. Local regulation can only occur through a local ordinance. The ordinance should address the types of retail liquor licenses available to potential licensees, and establish procedures and criteria for the issuance of licenses and enforcement of liquor regulations. No person may sell liquor without the required license or permit.

Contact LMC Research Service at (651) 281-1200 or (800) 925-1122 or Paul Kaspszack of MMBA at (763) 572-0222 or (800) 848-4912, ext. 3925.
[MMBA web site.](#)

[Minn. Stat. ch. 340A](#)

[Minn. Stat. § 340A.509](#)

See Part II - A. *Local option election*

Contact the [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) for more information regarding alcohol. (651) 201-7504.

[Minn. Stat. § 340A.101](#)

See Part II - A. *Local option election*

[Minn. R. § 7515.0400](#)

See Appendix A and Appendix C

There are many different types of liquor licenses currently allowed by state statute. In addition, the current legislative trend appears to favor the creation of new niche and specialty liquor licenses. Certain licenses are issued by the local municipality and others by the Commissioner of Public Safety. This document includes a table that shows the licenses issued by cities and those issued by the Commissioner of Public Safety

See Part II - A. *Local option election*

Neither the Commissioner of Public Safety nor a city may issue licenses if prohibited by local option election results. A city must be “wet” in order to allow intoxicating liquor sales in the city. A “wet” city is a city that has received approval from its voters at a local option election to issue intoxicating liquor licenses. Conversely, a “dry” city is one where the voters have not given permission to issue intoxicating liquor licenses.

See Parts III through VI for discussion of various types of licenses.

This section describes the different types of licenses and permits and the type of liquor sales allowed under each. It also briefly outlines the limited circumstances where licenses are not required. Later sections of this memo discuss eligibility for the different types of licenses and the licenses in detail. Basically, the licenses are grouped as follows:

- Off-sale intoxicating liquor.
- On-sale intoxicating liquor.
- On-sale wine.
- Off-sale wine.
- 3.2 percent malt liquor, strong beer authorizations and brew pub licenses.
- Liquor permits.

B. Off-sale intoxicating liquor licenses

An off-sale license allows the sale of intoxicating liquor in its original container for consumption off the licensed premises only. An off-sale intoxicating liquor licensee may sell off-sale wine and 3.2 percent malt liquor without an additional license. The requirements for being issued an off-sale intoxicating liquor license are discussed in detail in a later section of this memo.

C. On-sale intoxicating liquor licenses

An on-sale license allows the sale of alcoholic beverages for consumption only on the licensed premises. The different on-sale licenses are discussed in detail in later sections of this memo. The various types of on-sale licenses include the following:

[Minn. Stat. § 340A.101, subd. 20.](#) [Minn. Stat. § 340A.405, subd. 1](#)

See Parts III through VI

[Minn. Stat. § 340A.101, subd. 21](#)

See Part III - *Intoxicating liquor licenses*

- ***On-sale intoxicating liquor license.*** This license generally allows the sale of intoxicating liquor for consumption on the premises of the establishment. An on-sale intoxicating liquor licensee may also sell wine and 3.2-percent malt liquor without an additional license.

See Part III-C-2 on-sale - *Sunday liquor license*

- ***On-sale Sunday intoxicating liquor license.*** This license allows some on-sale establishments to sell liquor in conjunction with the sale of food on Sundays.

See Part III-B -5

- ***Temporary on-sale intoxicating liquor license.*** This license allows the sale of intoxicating liquor by a club, charitable, religious or non-profit organization, political committee or state university for a limited number of days.

See Part III - B - 3 - *On-sale/off-sale licenses combination*

- ***Combination license.*** This license allows both the on-sale and off-sale of intoxicating liquor in the same establishment.

See Part III - B -2 *Club licenses*

- ***On-sale club license.*** This is an intoxicating on-sale license that is issued to a club. It allows liquor to be sold to members and bona fide guests of members. These licenses may be more common in cities that operate municipal liquor stores, as an on-sale license can be issued to a club even if the city does not have “split liquor.”
- ***On-sale split-liquor license.*** This is an intoxicating on-sale license that may be issued in a city that operates a municipal liquor store. Such licenses can only be issued after a “split-liquor” election. Split-liquor elections are discussed later in this memorandum.

1. Special uses of on-sale intoxicating liquor licenses

There are also several circumstances that allow special uses of on-sale licenses. These special authorizations are detailed in a later part of this memo and include the following:

See Part III - C - *Special authorizations*

- ***Community festivals.*** Under some circumstances, a city may authorize an on-sale intoxicating liquor establishment to dispense intoxicating liquor off its regular licensed premises for a community festival. The licensee must have liquor liability insurance that will cover the festival location.

See Part III - C - *Special authorizations*

- ***Sports, conventions, cultural facilities.*** This is authorization from a city to an on-sale intoxicating liquor establishment that allows the establishment to dispense intoxicating liquor at a municipally-owned sports, convention or cultural facility.

D. Wine licenses

See Part IV - *Wine licenses*

- ***On-sale wine license.*** This license allows the on-sale of wine and wine coolers. Strong beer may be authorized to be sold under this license if the licensee also has a license to sell 3.2 percent malt liquor and gross receipts are at least 60 percent attributable to the sale of food.
- ***Culinary class limited on-sale wine license.*** This license allows the on-sale of malt liquor and wine in limited amounts to participants in a cooking class.
- ***Farm Wineries.*** This license allows farm wineries to sell on-sale and off-sale the wines they produce on the farm winery premises.
- ***Temporary off-sale wine license.*** This license allows the sale of vintage wine at a wine auction for consumption off the licensed premises.

See Part IV - G - *Temporary wine licenses*

E. 3.2 percent malt liquor, strong beer, and brew pub licenses

See Part V - A - *Off-sale 3.2 percent malt liquor (beer) licenses*

Off-sale 3.2-percent malt liquor license. Commonly called “3.2 beer license,” this license allows the sale of 3.2-percent malt liquor in its original container for consumption off the licensed premises.

See Part V - B - *On-sale 3.2 malt liquor (beer) licenses*

- ***On-sale 3.2 percent malt liquor license.*** Often referred to as a “3.2 beer license,” this license allows the on-sale of 3.2-percent malt liquor. Other types of liquor sales are not allowed under this license.

See Part V - D - *Temporary 3.2 percent malt liquor (beer) licenses*

- ***Temporary on-sale 3.2-percent malt liquor license.*** This license allows the on-sale of 3.2-percent malt liquor by a club, charitable, religious or non-profit organization for a temporary period of time. As with the regular 3.2-percent malt liquor license, the beer must be consumed on the licensed premises.

See Part V - C - *Strong beer sales*

- ***Strong beer sales.*** This is special authorization to sell beer that is stronger than 3.2-percent malt liquor. A city may authorize a person who has both an on-sale 3.2-percent malt liquor license and an on-sale wine license to sell strong beer without needing an additional license. The licensee must have at least 60 percent of sales attributable to the sale of food.
- ***Brewers or brew pub on-sale, off-sale, and temporary licenses.*** These special licenses authorize certain micro brewers to conduct certain sales in conjunction with their brewing activities.

F. Exemptions from licensing requirements

The following are situations where liquor sales may be allowed without an actual license:

See Part II- C - *Municipal liquor stores and split liquor*

See Part IV – B - 5- *Bed & breakfasts*

[Minn. Stat. § 340A.301, subd. 9](#)

[Minn. Stat. § 340A.34](#)

See Part IV – D – 3 Wine on premises stores and Part V – F

[Minn. Stat. § 340A.707](#)

See [Lawful Gambling](#), LMC Information Memo, July 2007.

See Appendix F

- ***Municipal liquor stores.*** These establishments are municipally owned and operated. A license is not required, but a city must be considered “wet” in order to open a municipal liquor store.
- ***Bed & Breakfasts.*** A bed and breakfast that meets certain narrow criteria is exempt from the on-sale wine license requirements when serving wine to guests of the establishment. However, these establishments may also be issued wine licenses in order to sell or serve wine.
- ***Home brewers.*** A person may make wine and beer in his or her own home for family consumption and use without a license.
- ***Brew on premises and wine making on premise stores.*** While these types of stores that permit customers to make beer or wine with the store’s materials and equipment must comply with federal regulation, they are not subject to state or local licensing requirements.
- ***Auction or raffle of wine, beer, or intoxicating liquor for charitable purposes.*** Non-profit organizations conducting a silent auction, raffle or other fund raising event may hold a limited number of live, on-premises auctions or raffles of wine, beer or intoxicating liquors without a license per year. Only limited quantities of liquor, specified in the statute, may be raffled or auctioned. As raffles are considered lawful gambling in Minnesota, an organization that wishes to conduct a raffle (but not an auction) under this provision will also need to comply with all applicable gambling laws and regulations. While state law now permits this activity as an unlicensed liquor transaction, cities may wish to amend their ordinance to require persons holding these events to provide notice to the city that the event is to occur, so that the city can monitor compliance with state statutes. Sample notice language can be found in the LMC Model Ordinance at Appendix F.

G. Liquor permits

There are three kinds of liquor permits:

See Part VI - A – *Consumption-and-display (“set-up”) permits*

- ***Consumption-and-display (often called “set-ups”) permit.*** Although not an actual liquor license, a consumption-and-display permit allows the permit holder to let people mix and consume liquor they bring to the premises. The permit holder sells beverages to customers for mixing with liquor. The beverage will be mixed with liquor that is brought by the customer and consumed on the premises.

See Part VI - B –
Temporary *consumption-
and-display* (“*set-up*”)
permits

See Part VI - C - *Caterer’s
permit*

- ***Temporary one-day consumption-and-display permit.*** This permit allows certain organizations to sell beverages for mixing and consumption with alcohol brought to the premises for specific events that are limited in duration.
- ***Caterer’s permit.*** This is a special permit that allows a restaurant with an on-sale intoxicating liquor license to sell intoxicating liquor off the licensed premises at an event for which it is also providing catered food services.

Part II. Liquor elections

Under certain circumstances, city councils must get the approval of the voters before issuing certain types of liquor licenses. There are four different kinds of liquor elections. This section discusses the four different kinds of liquor elections and their procedure. Detailed discussions of the licenses that relate to each election are contained in later sections of this memo. The different liquor elections include the following:

- ***Local option election.*** This is an election for permission to issue intoxicating liquor licenses.
- ***Sunday liquor election.*** This is an election to allow the sale of on-sale intoxicating liquor by certain establishments on Sundays.
- ***Split liquor election.*** This is an election to allow the issuance of private liquor licenses in cities with municipal liquor stores.
- ***Increasing the maximum number of licenses election.*** This is an election to allow the city to exceed the statutory number of licenses.

A. Local-option election

[Minn. Stat. § 340A.416](#)

See Appendix A. “*Wet*” or
“*Dry*”?

Cities where the voters have approved the issuance of liquor licenses are often called “wet.” Cities where the voters have refused to approve the issuance of liquor licenses are called “dry.” No “dry” city may issue liquor licenses until the voters have approved the issuance of licenses at a referendum. This referendum election is commonly referred to as the “local-option election.”

[A.G. Ops. 218c-1, Jul. 19, 1965; 218g-13, Jul. 28, 1965 and 218c-3, Jul. 19, 1965, Jul 20, 1965 and 218g-13 Jul. 21, 1965;](#)

See Appendix A. “*Wet*” or
“*Dry*”?

In the past, counties were also allowed to hold elections to decide if they were “wet” or “dry.” At the same time, cities could hold their own local option elections to determine if the city would be “wet” or “dry.” In 1965, the statutes for the county local-option elections were repealed and all counties became “wet.” Cities within these counties also became “wet” unless they had previously held a city local option election that provided otherwise. The attorney general has issued several opinions concluding that cities that have never held local option elections are automatically “wet” cities.

In short, if a city has never held a local-option election, it appears that it would automatically be a “wet” city. Cities that have held previous local-option elections, however, may need to hold another election before issuing licenses if the last election determined that the city was “dry.”

Minn. Stat. § 340A.416, subd. 1

A city must hold an election on whether the city will issue intoxicating liquor licenses if it receives a valid petition. The petition is valid if it meets the lesser of the following two criteria:

- The petition is signed by 30 percent of the people who voted in the last election.
- The petition is signed by 200 registered voters residing in the city.

Minn. Stat. § 205.10, subd. 1. See also *Special Elections in Statutory Cities*, LMC Information Memo, October 1993.

The liquor statutes do not say whether the city council can hold a local-option election without receiving a petition from the voters. However, a separate election statute suggests that the council does have the ability to put this question on the ballot without having received a petition.

Minn. Stat. § 340A.416, subd. 2. See Appendix B. *Sample ballot questions—1. Local option*

The referendum question must be on a separate ballot and must allow the voters to vote either “for license” or “against license.” A sample ballot is included in this memo.

Minn. Stat. § 340A.416, subd. 3

The city may not issue intoxicating liquor licenses if a majority of the people voting on the question vote “against license.” However, the council may issue licenses if another election is held on the question at a later date and the voters approve the license.

Minn. Stat. § 340A.416, subd. 4

The city clerk must certify the election results within 10 days of the election. Before issuing any license, a city should adopt a liquor licensing ordinance. The ordinance may be adopted before or after the election. If adopted before the election, however, a license cannot be issued until after voters approve the local option question.

See Part V - 3.2 malt liquor (beer) licenses

A local-option election is not needed for a city to issue 3.2-percent malt liquor (beer) licenses. This is because local option elections deal only with intoxicating liquor licenses. However, the city should have an ordinance that addresses 3.2-percent malt liquor licensing in order to issue such licenses.

B. Sunday liquor election

Minn. Stat. § 340A.504, subd. 3

See Part III - Sunday intoxicating liquor licenses
Minn. Stat. § 340A.404, subd. 10

An establishment must obtain a Sunday liquor license from the city in order to sell intoxicating liquor on-sale on Sunday. Before a city may issue Sunday licenses, it must get approval from the voters at a general or special election. A later section of this memo contains a thorough discussion of who is eligible for Sunday liquor licenses and what restrictions exist for these types of licenses. According to the Alcohol and Gambling Enforcement Division of the Department of Public Safety, temporary on-sale licenses may be issued for Sundays even if the city does not allow Sunday sales.

See Appendix B. *Sample ballot questions—2. Sunday liquor*

Although the statutes do not provide any wording for the ballot, it would appear that the local-option liquor election ballot wording could be modified for the question on Sunday sales. A sample ballot question for Sunday liquor is included in this document.

Minn. Stat. § 340A.504, subd. 3 (b)

After the voters have approved of Sunday liquor sales, the city council must pass an ordinance or amend its existing ordinance regarding Sunday licenses. Following this, the council can consider applications for Sunday licenses.

See Part V - 3.2-percent malt liquor (beer) licenses

A Sunday liquor election is not necessary for the city council to issue 3.2-percent malt liquor licenses for Sunday sales pursuant to a local ordinance. A Sunday election is only needed to obtain permission to allow the issuance of Sunday intoxicating liquor licenses.

See Part III – C – Sunday intoxicating liquor licenses

The statutes are unclear regarding whether a Sunday election would be needed in order to allow a municipal liquor store to sell liquor on a Sunday. Some argue that since a liquor license is not needed for a municipal liquor store, an election to issue a Sunday on-sale license is not needed. Cities that wish to allow their on-sale municipal liquor stores to sell liquor on Sundays should consult their city attorneys.

C. Split liquor election

Minn. Stat. § 340A.601, subd. 5

Cities with populations of 10,000 or less may establish, own, and operate municipal liquor stores. The store may be an on-sale establishment, an off-sale establishment, or an on-sale and off-sale (combination) establishment. Normally, a city with a municipal liquor store will exercise exclusive authority over the liquor trade. However, a city with a municipal liquor store may opt to allow additional on-sale intoxicating liquor establishments.

A city that issues private on-sale liquor licenses while also operating a municipal liquor store is said to have “split liquor.” Like Sunday liquor sales, the city must be authorized to issue additional private licenses by the voters at a special election. There is a limited exception from this election requirement for licenses issued to certain clubs and congressionally chartered veterans’ organizations that have been in existence for at least three years and sell liquor only to members and bona fide guests. A city with a municipal liquor store may issue club on-sale intoxicating liquor licenses, as discussed below, without a split liquor election.

See Part III - 4 - “Split liquor”

On-sale licenses in split liquor cities may only be issued to certain types of establishments. Criteria for these licenses are discussed in a separate section of this memo.

See Appendix B. *Sample ballot questions—3. “Split liquor”*

The statute has no required language for the ballot question on split liquor. However, suggested language can be found in the sample ballot question in Appendix B of this memo.

Minn. Stat. § 340A.601,
subd. 5, 6

The statute is not clear as to whether a split-liquor election would be needed in order to issue 3.2-percent malt liquor licenses in a city with a municipal liquor store. Cities should check with their city attorneys for guidance.

D. Increasing maximum number of on-sale licenses election

Minn. Stat. § 340A.413,
subd. 3

State statute places limits on the number of on-sale liquor licenses cities can issue. The limits are based upon a city's population and are discussed in detail in a later section of this memo. Through its local ordinance, a city may determine to issue fewer licenses than the statutory maximum. Conversely, a city may exceed these limits when authorized to do so by the city's voters. However, recent changes in the law, which allow cities to exclude certain common licenses from their count towards the statutory limit, may have obviated the need for most cities to pursue this type of election.

See Appendix B. *Sample ballot questions—4-A Increasing maximum number of licenses*

For this type of election, the city council may state the ballot question in either one of two ways. The first way is to ask for permission to issue licenses in excess of the number permitted by state law. If the majority of voters vote "yes" to this question, the council may issue an unlimited number of on-sale licenses.

See Appendix B. *Sample ballot questions—4-B Increasing maximum number of licenses*

The second way the council may frame the ballot question is to ask for a specific number of licenses beyond the statutory limit. If the majority of voters vote "yes" to this question, the council may issue additional on-sale licenses in the number stated in the question.

Many cities have gotten special legislation to increase the number or types of liquor licenses they can issue. Since special legislation is not uncommon, it may also be an option for some cities.

Part III. Intoxicating liquor licenses

Minn. Stat. § 340A.101 subd.
14

See Part I - B - *Off-sale licenses* and C - *On-sale licenses*

Intoxicating liquor is defined as ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent alcohol by weight. There are two major categories of intoxicating liquor licenses: on-sale and off-sale. Wine is considered an intoxicating liquor that can be sold under a general intoxicating liquor license, but is occasionally sold under a more limited wine license. As mentioned in the previous part of this memo, a city must be "wet" in order to allow the sale of intoxicating liquor within its boundaries. This section discusses the different types of intoxicating liquor licenses and who is eligible for them. Wine licenses, strong beer sales, 3.2 beer licenses and various specialty licenses are discussed in later sections of this memo.

A. Off-sale intoxicating liquor licenses

With the approval of the Commissioner, cities may issue off-sale intoxicating liquor licenses to the following types of establishments:

- Exclusive liquor stores.
- Drug stores to which an off-sale license had been issued on or before May 1, 1994.

In addition to these two types of establishments, a first class city may issue licenses to a general food store that had been issued an off-sale license on Aug. 1, 1989. Outside of this narrow exception, off-sale intoxicating liquor licenses cannot be issued to general foods or grocery stores in Minnesota.

After the city has approved an off-sale intoxicating liquor license, the Commissioner of Public Safety's final approval must be obtained. Without the Commissioner's approval, the license will not be effective. The proper form for obtaining the Commissioner's approval can be obtained from the Department of Public Safety's Alcohol and Gambling enforcement Divisions. In addition to the form, the following information must be provided:

- One copy of the license certificate for off-sale intoxicating liquor.
- A copy of the minutes of the meeting held by the city establishing the city's approval of the off-sale intoxicating liquor license.
- The result of any election in the municipality where the question of licensing the sale of intoxicating liquor was voted. This shall not include the repeal election of Sept. 12, 1933, or any county option election. If no election was held in the municipality, a statement to that effect is required.

B. On-sale intoxicating liquor licenses

There are several different variations of the on-sale intoxicating liquor license, including the following:

- General on-sale intoxicating liquor license.
- Club license.
- On-sale/off-sale combination license.
- Temporary on-sale intoxicating license issued to a club, charitable, religious, or other nonprofit organization, certain registered political committees, a state university or certain brewers.

1. General on-sale intoxicating liquor

A city may issue an on-sale intoxicating liquor license to the following establishments:

Minn. Stat. § 340A.405, subd. 1(b)

Minn. Stat. § 340A.504 and Minn. R. § 7515.0440

Contact the Department of Public Safety's Alcohol and Gambling Enforcement Division at (651) 215-6209 for the appropriate form.

Minn. Stat. § 340A.101, subd. 21

Minn. Stat. § 340A.404, subd. 10.

Minn. Stat. § 340A.404, subd. 1

Minn. Stat. § 340A.101
subd. 13.

- Hotels where food and lodging are regularly furnished to guests. The facility must contain a dining room serving the general public, with tables for seating at least 30 guests at one time. In addition, in first-class cities, the hotel must contain a minimum of 50 guest rooms. In second-class cities, the hotel must contain 25 guest rooms. In all other cities and unincorporated areas, the hotel must contain a minimum of 10 guest rooms.

Minn. Stat. § 340A.101,
subd. 25

- Restaurants where meals are regularly prepared (as opposed to merely being assembled or reheated) on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by city ordinance. Also, according to the Department of Public Safety's Alcohol and Gambling Enforcement Division, the restaurant must have a restaurant license from the Department of Health in order to be deemed a restaurant for liquor licensing purposes.

- Bowling centers.
- Clubs or congressionally chartered veterans organizations that meet certain criteria.
- Sports facilities owned by the Metropolitan Sports Commission.
- Exclusive liquor stores.

Minn. Stat. § 340A.404,
subd (b)

- Theaters where live performances are presented to ticket holders. An on-sale license granted pursuant to this provision is valid for all days of the week, including Sundays, regardless of any other law, charter provision or ordinance, for sales to persons attending a theater performance.

- Entities for which special authorizing legislation has been obtained from the state Legislature.

Minn. Stat. § 340A.404,
subd. 3

Contact the [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) at (651) 215-6209 for the appropriate form.

Cities must provide certain information to the Commissioner of Public Safety within 10 days after issuing an on-sale intoxicating liquor license. The proper form for reporting this information can be obtained from the Department of Public Safety's Alcohol and Gambling Enforcement Division. Generally, the following information must be provided:

- The licensee's name (corporation, individual, or partnership).
- The licensee's address.
- The licensee's date of birth.
- The licensee's social security number.
- The licensee's business and home phone numbers.
- The business' tax I.D. number.

- The licensee’s liquor liability and workers’ compensation insurance certificates.
- The corporate officer’s names, addresses, and dates of birth.
- The license fees charged by the city.
- The licensee’s trade name.
- The effective date of the license.
- The expiration date of the license.

Minn. Stat. § 340A.404, subd. 3

The city must also inform the Commissioner of Public Safety if any of the following events occur:

- A license transfer (*NOTE: A new application must be submitted to the Commissioner of Public Safety in order to transfer a license*).
- A license cancellation.
- A license suspension.
- A license revocation.

2. On-sale intoxicating liquor club licenses

See Appendix C. *Who issues and who approves?*

With the approval of the Commissioner of Public Safety, a city may issue a club license. A club license is an on-sale intoxicating liquor license that is issued to a club or congressionally chartered veterans’ organization. A club licensee can only make retail liquor sales to members and their bona fide guests.

Minn. Stat. § 340A.101, subd. 7

Only establishments that meet the statutory definition of the term “club” are eligible for a club license. A “club” is defined as an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports or a congressionally chartered veterans’ organization. In addition, the club must meet the following criteria:

Minn. Stat. § 340A.101, subd. 7
A.G. Op. 218-G-15 (June 17, 1954).

- Have more than 30 members. According to one attorney general opinion, membership (for the purposes of determining persons who may purchase intoxicating liquor) should be stated in the club’s articles of incorporation or by-laws.
- Own or rent a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members.
- Is directed by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent or employee shall receive any profit from the distribution or sale of beverages to the members of the club or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

A.G. OP. 218-G (Aug. 2, 1947).

See Part IX - B – Illegal Sales. See also *Rambaum v. Swisher*, 435 N.W.2d 19 (Minn., 1989)

Minn. Stat. § 340A.410, subd 6.

See Department of Public Safety’s Alcohol and Gambling Enforcement Division for the appropriate form.

See the Department of Public Safety’s Alcohol and Gambling Enforcement Division for the appropriate form.

Minn. Stat. § 340A.406

Minn. Stat. § 410.01

Minn. Stat. § 340A.601, subd 5.

- Is a bona fide membership organization and “not a scheme or device for supplying liquor to the members generally with little or no trouble about securing membership.” In order to meet this requirement, a club licensee should maintain a membership list and restrict sales to members and their guests in conformance with their limited license. Sales to the general public, who are not members or bonafide guests of members, may constitute an illegal sale for dram shop purposes under the Civil Damages Act.

No club liquor license may be issued or renewed by a municipality to a club that discriminates against members or applicants for membership or guests of members on the basis of race.

After the city has approved a club license, the Commissioner of Public Safety’s final approval must be obtained. Without the Commissioner’s approval, the license will not be effective. The proper form for obtaining the Commissioner’s approval can be obtained from the Department of Public Safety’s Alcohol and Gambling Enforcement Division.

In addition to obtaining the Commissioner’s consent, cities must provide certain information to the Commissioner of Public Safety within 10 days after issuing an on-sale intoxicating liquor license, including a club license. The proper form for reporting this information can be obtained from the Department of Public Safety’s Alcohol and Gambling Enforcement Division.

3. On-sale/off-sale combination intoxicating liquor licenses

Certain cities may issue a combination on-sale/off-sale license or both an off-sale and an on-sale intoxicating liquor license to the same person. The following cities may issue such licenses:

- Fourth-class cities. (These are statutory or home rule charter cities with a population of 10,000 or fewer).
- Statutory cities of 10,000 or fewer. A city that issues a license under this provision may continue to do so if the population exceeds 10,000.

Given the language of the statute, it would appear only statutory cities could continue to issue combination licenses when their population exceeds 10,000.

4. “Split liquor” on-sale intoxicating liquor licenses

Many cities choose to operate municipal liquor stores. Some do this as the sole vendor of intoxicating liquor within the city. Others choose to issue on-sale private licenses, as well as operate their municipal store. Cities that choose to operate municipal liquor stores and also issue private licenses are commonly referred to as “split-liquor” cities.

See Part II - C - *Split liquor election*

Generally, a city with a municipal liquor store cannot issue any private intoxicating licenses until it gets the approval of its voters at a special election

Once the voters have approved split liquor, the city may issue private on-sale intoxicating liquor licenses to the following limited types of establishments:

Minn. Stat. § 340A.101, subd. 13.

- Hotels where food and lodging are regularly furnished to guests. The facility must contain a dining room serving the general public, with tables for seating at least 30 guests at one time. In addition, in first-class cities, the hotel must contain a minimum of 50 guest rooms. In second-class cities, the hotel must contain 25 guest rooms. In all other cities and unincorporated areas, the hotel must contain a minimum of 10 guest rooms.

See Part III –B-2 – On-sale club intoxicating liquor licenses.

- Clubs that would otherwise meet the criteria for a “club” intoxicating liquor license as discussed above.

Minn. Stat. § 340A.101, subd 25.

- Restaurants where meals are regularly prepared (as opposed to merely assembled or reheated) on the premises and served at tables to the general public, and having a minimum seating capacity for guests as prescribed by city ordinance.

5. Temporary general on-sale intoxicating licenses

Minn. Stat. § 340A.404, subd. 10

The city council may issue temporary on-sale intoxicating liquor licenses to any of the following organizations:

- A club or charitable, religious or other non-profit corporation that has existed for at least three years.
- A political committee registered under state law.
- A state university.

The temporary license may only be issued to the above organizations for the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee. The event must occur within city limits.

The license may authorize sales for up to four consecutive days. It may also authorize sales on premises other than premises the licensee owns or permanently occupies. It may also provide that the licensee can contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by the city. This type of situation is not the same as a caterer’s permit, which is discussed in further detail in a later section of this memo.

See Part VI - C - *for discussion of caterer’s permits.*

Temporary on-sale intoxicating licenses are subject to the terms imposed by the city, including fees. Such licenses are not valid until approved by the Commissioner of Public Safety.

Minn. Stats. §§ 340A.601, subd. 5 and 340A.404, subd. 10

According to the Department of Public Safety Alcohol and Gambling Enforcement Division, a city with a municipal liquor store may issue temporary on-sale intoxicating licenses without holding a split liquor election.

Minn. Stat. § 340A.410, subd. 10

A city may issue a limited number of temporary licenses in a single year. In no case can a city issue more than 12 days worth of temporary licenses to a single organization per year. In addition, a municipality with a population of 5,000 or greater may not issue more than one temporary license for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

Minn. Stat. § 340A.909, subd. 1, 2

If beer will be sold under a temporary on-sale license at a government-owned building, the licensee must ensure a Minnesota-produced beer is available for purchase at each station where beer is sold. However, people who hold an event on property owned by the city are not required to make Minnesota-produced beer available if certain criteria are met. These criteria are discussed in detail later in this memo.

See Part V - G - *Minnesota beer*

6. Entities that have obtained special legislation

Many cities contain cultural, charitable, and recreational facilities that would like to offer retail on-sale intoxicating liquor to the public in conjunction with their programs and events. Often, these entities do not meet the statutory qualifications to be licensed to sell liquor to their patrons on a permanent basis, but may require more than the statutorily allowed number of temporary licenses in a 12-month period. These entities may seek special authorization in the form of special legislation from the state Legislature to be licensed to engage in on-sale intoxicating liquor sales. This special legislation must be approved by the local governing body in order to be effective. The *League's Handbook for Minnesota Cities* discusses special legislation in detail in Chapter 7.

C. Special authorizations and licenses for existing on-sale license holders

1. Special authorization for off-premises sales of on-sale intoxicating liquor

Cities may authorize on-sale intoxicating liquor licensees to make sales off their licensed premises in certain situations.

Minn. Stat. § 340A.404, subd. 4

A city may authorize a retail on-sale licensee (licensee within the city or an adjacent municipality) to dispense intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the city.

Minn. Stat. § 340A.404, subd. 4(a)

Minn. Stat. § 340A.404, subd. 4(b)

Minn. Stat. § 340A.409

A city may authorize an on-sale intoxicating liquor licensee (within the city) to dispense intoxicating liquor off the licensed premises at a community festival held within the city. The authorization must specify the area in which the intoxicating liquor must be dispensed and consumed. Such authorization must not be issued unless the licensee demonstrates it has liquor liability insurance as prescribed by state statute to cover the event.

Minn. Stat. § 340A.409

See Part IX - *Liquor liability*

Cities may want to require insurance coverage in amounts higher than the dram-shop liability insurance statutes require for risk management purposes, regardless if the city is involved in the festival or event. If a festival or event is being held on city property or if it is an event the city is sponsoring, cities should require that the insurance policy names the city as an additional insured. A contract that includes hold-harmless and indemnification language can also help to maximize a city's liability protection. There are additional suggestions on insurance and liability discussed in a later section of this memo.

2. Sunday on-sale intoxicating liquor licenses

See Part II – A - *for discussion on election requirement.*

Cities may adopt ordinances to issue licenses to establishments to sell intoxicating liquor on-sale on Sundays. Voter approval is required, however, before the city can issue Sunday licenses. Sunday liquor elections are discussed in an earlier section of this memo. An establishment must obtain a Sunday liquor license in order to sell intoxicating liquor on Sunday.

Minn. Stat. § 340A.504, subd. 3(a)

A Sunday license allows certain on-sale establishments to sell intoxicating liquor on the premises in conjunction with the sale of food between the hours of 10 a.m. on Sundays and 2 a.m. on Mondays.

Minn. Stat. §§ 340A.504, subd. 3 (c) and 340A.408, subd. 2

See Appendix E. *License fees*

The license is issued by the city council for a period of one year. The license fee may not exceed \$200. This fee may be in addition to the maximum on-sale license fees that may be charged under state statute.

A.G. Op. 218g-19 (Aug. 7, 1967)

The attorney general concluded that a patron does not need to actually be served a meal in order to be served liquor on a Sunday. Many city ordinances, however, contain provisions requiring a certain percentage of the licensee's sales be attributed to food sales.

A city may issue a Sunday license only to those operating one of the following types of establishments with a minimum seating capacity of 30 persons:

Minn. Stat. § 340A.101, subd. 25; see also *Montella v. City of Ottertail*, 633 N.W.2d 86 (Minn. Ct. App. 2001)

- **Restaurants.** A restaurant must regularly serve meals at tables to the general public. It must be under the control of a single proprietor or manager, and must have facilities for seating in such manner as the city determines. Also, according to the Department of Public Safety's Alcohol and Gambling Enforcement Division, the restaurant must have a restaurant license from the Department of Health in order to be deemed a restaurant for liquor licensing purposes.

Minn. Stat. § 340A.101, subd. 7

- **Clubs.** A club must be an organization incorporated under state laws for civic, fraternal, social, business, intellectual improvement, the promotion of sports, or a congressionally-chartered veterans' organization. It must have more than 30 members and have owned or rented a building or part of a building for more than one year that is suitable to accommodate its members. The club must also have a board of directors, executive committee or similar body. No member, officer, agent or employee can receive any profit from the sale of liquor other than a reasonable salary.

Minn. Stat. § 340A.504, subd. 3

- **Bowling centers.** This term is not defined in the statutes, but listed as an establishment that would eligible for a Sunday license.

Minn. Stat. §§ 340A.101, subd. 13 and Minn. Stat. § 340A.504, subd. 3

- Hotels where food and lodging are regularly furnished to guests. The facility must contain a dining room serving the general public, with tables for seating at least 30 guests at one time. In addition, in first-class cities, the hotel must contain a minimum of 50 guest rooms. In second-class cities, the hotel must contain 25 guest rooms. In all other cities and unincorporated areas, the hotel must contain a minimum of 10 guest rooms.

Minn. Stat. § 340A.504, subd. 3(a);

All of the above establishments must have a seating capacity for at least 30 persons at one time at tables. They must also already have on-sale intoxicating liquor licenses. Since state statute allows cities to set the minimum seating requirements for the issuance of on-sale intoxicating liquor licenses to restaurants, not all restaurants that possess an on-intoxicating liquor license will qualify for Sunday sales under the state statute.

Minn. Stat. § 340A.101, subd. 25.

Minn. Stat. § 340A.504, subd. 3(b);

Once a Sunday license is issued, an establishment may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 10 a.m. on Sundays and 2 a.m. on Mondays. The city may further restrict these hours through their local ordinance, but must restrict the sale of intoxicating liquor and 3.2 malt liquor on an equal basis.

Minn. Stat. § 340A.504, subd. 6.

Minn. Stat. § 340A.404, subd. 10

Temporary on-sale licenses may be issued for a Sunday even if the city does not allow Sunday sales. In addition, an on-sale intoxicating liquor license granted to a theater pursuant to Minn. Stat. 340A.404 subd (b) authorizes sales on all days of the week to persons attending events at the theater without a special liquor election to allow Sunday sales.

Minn. Stat. § 340A.404 subd (b).

3. 2 a.m. on-sale intoxicating liquor permit

Minn. Stat. § 340A.504, subd. 7.

In 2003 the State Legislature passed legislation to allow cities to authorize the sale of on-sale intoxicating liquor at licensed establishments until 2:00 A.M. Cities must authorize sales after 1:00 A.M. in a local ordinance. In addition, liquor licensees must apply for a special 2:00 A.M. license from the Commissioner of Public Safety and pay a fee based on a sliding fee scale. The Optional 2:00 A.M. liquor license is valid for a 12 month period from the date of approval by the Alcohol and Gambling Enforcement Division.

4. Wine, Malt Liquor & Spirits Tastings

Minn. Stat. §340A.419

A tasting is an event of not more than four hours' duration for which persons pay a fee to participate and are allowed to consume wine, malt liquor or spirits by the glass without paying a separate charge for each glass.

See Part IV—D-1 for more information on tastings by exclusive liquor stores.

An exclusive liquor store may conduct a tasting on the premises of a holder of an on-sale intoxicating liquor license that is not a temporary license if the exclusive liquor store meets certain requirements.

Part IV. Wine licenses

Minn. Stat. § 340A.101, subd 29.

Wine is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake. The increasing popularity of wine and wine-based businesses have prompted the creation of a number of specialized and/or limited wine licenses, permits, and exemptions from licensing in recent years.

A. On-sale wine licenses

Minn. Stat. § 340A.404, subd. 5(a)

With the consent of the Commissioner, cities may issue on-sale wine licenses that allow licensees to sell wine (but not other intoxicating liquors) in limited circumstances. A wine license permits the on-sale of wine up to 14 percent alcohol by volume. If a person wants to sell wine that has more than 14 percent alcohol by volume, he or she will need an intoxicating liquor license. The Alcohol and Gambling Enforcement Division of the Department of Public Safety has said wine coolers may be sold under a wine license as long as they do not contain more than 14 percent alcohol by volume.

A city must allow the sale of alcohol within its boundaries in order to issue wine licenses (in other words, the city must be “wet”). If the city is “dry” it cannot issue wine licenses without holding a local option election. This is because wine is considered an intoxicating liquor.

A city is not required to issue wine licenses merely because it provides intoxicating liquor licenses. However, if wine licenses are not available, a person would need an intoxicating liquor license in order to sell wine. A city will need to adopt an ordinance or amend its existing liquor ordinance in order to authorize wine licenses.

State statutes allow the following establishments to be issued wine licenses:

Minn. Stat. § 340A.404, subd. 5(a)

Minn. Stat. § 340A.404, subd. 5(c)

Minn. Stat. § 340A.404, subd. (b).

Minn. Stat. § 340A.404, subd. 5(a)

Minn. Stat. § 340A.408, subd. 2(c)

Minn. Stat. 340A.404, subd. 3.

See Part- III-B-1 *General on-sale intoxicating liquor.*

Minn. Stat. § 340A.404, subd 5(c)

Minn. Stat. § 340A.404, subd. 5

- **Restaurants.** Restaurants that have facilities for seating at least 25 guests at one time.
- **A licensed bed and breakfast facility.** Wine may only be furnished to registered guests of the facility and, if the facility contains a licensed commercial kitchen, also to guests attending private events at the facility. (*NOTE:* There is a limited exemption from this license requirement for bed & breakfasts that meet certain criteria.)
- Theaters where live performances are presented to ticket holders.
- Entities for which special authorizing legislation has been obtained from the state Legislature.

A wine license, with the exception of a theater wine license, authorizes the sale of wine on all days of the week unless the city restricts the license to all days except Sunday. It does not appear that a city can restrict Sunday sales for a theater granted a wine license. It also appears that a Sunday election would not be required in order for a wine licensee to sell wine on a Sunday unless the license contained such a restriction.

The fee for a wine license cannot exceed half of the license fee charged for an on-sale intoxicating license or \$2,000, whichever amount is less.

Since wine is considered an intoxicating liquor, cities must provide information about the issuance of the intoxicating liquor license to the Commissioner of Public Safety within 10 days after issuing an on-sale wine license to a restaurant or theater. The proper form for reporting this information can be obtained from the Department of Public Safety’s Alcohol and Gambling Enforcement Division. The Alcohol and Gambling Enforcement Division of Public Safety has said that cities must also obtain the consent of the Commissioner of Public Safety for all wine licenses issued in the State of Minnesota.

1. Restaurants

State statute requires that in order for a restaurant to be eligible for a wine license, it must have seating for at least 25 guests at one time. Although not specified in the statutes, the Alcohol and Gambling Enforcement Division has also stated that a true restaurant must have restaurant cooking facilities, as well as a restaurant license from the Minnesota Department of Health, in order to be deemed a restaurant for liquor licensing purposes. In short, a microwave or toaster oven would not be enough by itself to qualify an establishment as a restaurant.

Cities may impose stricter requirements in their definition of the term “restaurant,” such as requiring more seating or that a certain percentage of sales are attributable to sale of food.

Minn. Stat. § 340A.404,
subd 3.

Cities must obtain the consent of the Commissioner to issue a restaurant wine license. In addition, within ten days of issuance of the license, the City must inform the Commissioner of the licensee's name and address, trade name and the effective date and expiration date of the license. The City must also inform the Commissioner if a transfer, cancellation, suspension or revocation occurs during the license period.

2. Bed & breakfasts

Minn. Stat. § 340A.404,
subd. 5(c)

A city may issue an on-sale wine license to a licensed bed-and-breakfast facility with the approval of the Commissioner of Public Safety. The bed-and-breakfast facility may furnish wine only to registered guests of the facility. In addition, if the facility contains a licensed commercial kitchen, wine may be furnished to guests attending private events at the facility.

Minn. Stat. § 340A.404,
subd 5(c).

A city must obtain the consent of the Commissioner to issue an on-sale wine license to a bed and breakfast facility.

Minn. Stat. § 340A.4011,
subd. 1

An on-sale wine license is not required for certain bed-and-breakfast establishments. In order to be exempt, a bed-and-breakfast facility must meet the following criteria:

- Provide not more than eight rooms for rent.
- Rent those rooms to no more than 20 guests at a time.
- Be located on the same property as the owner's personal residence.
- Provide no meals, other than breakfast served to persons who rent rooms.
- Be built and occupied or converted to a single family residence prior to being used as a place of lodging.
- Serve no more than two, four-ounce glasses of wine per day to each person renting a room.
- Allow the wine to be consumed only on the premises.
- Charge no additional fee for the wine.
- Register the bed and breakfast facility with the Commissioner of Public Safety.

3. Theaters

Minn. Stat. § 340A.404,
subd (b)

A city may issue an on-sale wine license to a theater. A theater wine license is an on-sale license that is valid for all days of the week, including Sundays, regardless of any other law, charter provision or ordinance, for sales to persons attending a theater performance.

Minn. Stat. § 340A.101,
subd 28

A theater is defined as a building containing an auditorium in which live dramatic, musical, dance or literary performances are regularly presented to holders of tickets for those performances. Unlike restaurants, it does not appear that the theater must meet any threshold seating or size requirements to qualify for a theater license.

The provisions related to licensing theaters were added to state law in 2003. A city may choose not to issue licenses to theaters, since a city may be more restrictive than state law. A city that wishes to take advantage of this new provision in state law may need to adopt an ordinance or amend its existing ordinance in order to authorize the issuance of an on-sale wine license to a theater.

Minn. Stat. § 340A.404,
subd 3.

Cities must provide certain information to the Commissioner of Public Safety within 10 days after issuing an on-sale wine license to a theater. The City must inform the Commissioner of the licensee's name and address, trade name and the effective date and expiration date of the license. The City must also inform the Commissioner if a transfer, cancellation, suspension or revocation occurs during the license period.

The Alcohol and Gambling Enforcement Division of Public Safety has said that cities must also obtain the consent of the Commissioner of Public Safety to issue a theater wine license using the same process for the issuance of restaurant wine licenses.

B. Culinary class limited on-sale license

Minn. Stat. § 340A.4041

A city may issue a limited on-sale wine/intoxicating malt liquor license to a business that conducts culinary or cooking classes if certain criteria are met. In order to be eligible for this on-sale wine license, the business must:

- Be otherwise ineligible for a standard on-sale wine license.
- Require attendees to make payment or advance registration for attendance at culinary or cooking classes offered by the business.

The license authorizes the licensee to furnish each class participant, at no additional cost, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class for consumption on the licensed premises only.

The provisions in state law creating this type of license were adopted in 2006 by the state Legislature. A city is not required to issue culinary class wine licenses merely because it provides for other wine or intoxicating liquor licenses. However, a city that wishes to issue this type of license will need to adopt an ordinance or amend its existing liquor ordinance in order to authorize culinary class wine licenses.

Minn. Stat. § 340A.509.

State law does not require the licensee to carry insurance or provide proof of financial responsibility regarding claims under the Civil Damages Act. However, the city may require insurance via its local ordinance.

The Alcohol and Gambling Enforcement Division of Public Safety has said that cities must also obtain the consent of the Commissioner of Public Safety for all wine licenses issued in the State of Minnesota.

C. Farm wineries

Minn. Stat. § 340A.315
Minn. Stat. § 340A.101,
subd. 11

Farm wineries are licensed by the Commissioner of Public Safety. A farm winery is defined as a winery operated by the owner of a Minnesota farm and producing table, sparkling wines or fortified wines from grapes, grape juice, other fruit bases or honey, with a majority of the ingredients grown or produced in Minnesota.

A farm winery license allows the sale, on the farm winery premises, of table, sparkling or fortified wines produced by that farm winery at on-sale or off-sale, in retail or wholesale lots in total quantities not in excess of 50,000 gallons in a calendar year.

Farm wineries are also authorized to sell glassware, wine literature and accessories, cheese and cheese spreads, and other wine related food items. Farm wineries may provide free samples of the wines offered for sale. Finally, farm wineries may offer samples of (but not sell) distilled spirits, such as cognac, manufactured on the premises.

Minn. Stat. § 340A.315,
subd 2.

See Part III-B-1, *General on-sale intoxicating liquor.*

Farm wineries are allowed to hold an on-sale intoxicating liquor license in addition to their farm winery license, provided that they meet all the other eligibility requirements for an on-sale intoxicating liquor license. Farm wineries, in addition to their regular winery operations, may operate business establishments (such as a restaurant or theater) that utilize an on-sale intoxicating liquor license.

D. Special issues related to wine

1. Wine, malt liquor and spirits tasting in exclusive liquor stores

Minn. Stat. §340A.419

A tasting is an event of not more than four hours' duration for which persons pay a fee to participate and are allowed to consume wine, malt liquor or spirits by the glass without paying a separate charge for each glass.

Minn. Stat. § 340A.510

A tasting for a fee is different from the mere provision of free samples to potential customers. Under state law, an on-sale or off-sale retail licensee or municipal liquor store may provide samples of wine, liqueurs, cordials, and distilled spirits without an additional license. The samples must be consumed on premises, reflect liquor currently for sale on the premises, and must meet certain size requirements. This is not considered a tasting.

An exclusive liquor store may conduct a tasting on the premises of a holder of an on-sale intoxicating liquor license that is not a temporary license if the exclusive liquor store meets the following requirements:

- No wine, malt liquor or spirits at the tasting may be sold for off-premises consumption. A participant in the tasting may fill out a form indicating preferences.. The form may be held on the premises of the exclusive liquor store to assist the participant in making an off-sale purchase at a later date.
- Any fees collected from participants in the tasting may only be used to defray the cost of conducting the tasting.

Minn. Stat. § 340A.509

State statute does not require exclusive liquor stores to obtain a permit to conduct a tasting. However, a city may choose to require a permit for these activities pursuant to its local ordinance.

2. Wine tasting fund raisers

Minn. Stat. § 340A.418.

A charitable, religious or other nonprofit organization may conduct a wine-tasting event without a license or permit from the city if it meets certain conditions. These types of tastings may only include wine, but not malt liquor or spirits as permitted for exclusive liquor stores conducting tastings.

In order to qualify as a wine tasting that is exempt from licensing or permitting, the wine tasting must:

- Be conducted by a charitable, religious or other non-profit organization.
- Have a duration of four hours or less.
- Be conducted on premises the organization owns or leases or has been donated the use of, or on the licensed premises of a holder of an on-sale intoxicating liquor license that is not a temporary license, if the organization holds a temporary on-sale intoxicating liquor license under Minnesota Statute § 340A.404, subd.10.
- Not allow the sale or the taking of orders of wine for off-premises consumption.

Minn. Stat. § 340A.404, subd.10.

Proceeds from the wine tasting must be used for the organization's primary nonprofit purpose or donated to another nonprofit organization assisting in the wine tasting, if the other nonprofit organization uses the donation only for that organization's primary nonprofit purpose.

The four-hour time limitation does not apply to a wine tasting at a convention of fine wine and gourmet food exhibitors, provided the convention has at least 100 exhibitors and takes place over not more than three days.

3. Wine-on-premises stores

Minn. Stat. § 340A.34

See 27CFR § 24.75

A wine-on-premises store is a commercial establishment in which individuals make wine on the premises for personal and family use only and not for resale, using ingredients or materials or both supplied by the establishment. No license is required to operate a wine-on-premises store if the establishment is operated in accordance with Federal regulations.

Alcoholic beverages, other than those produced by a customer, may not be sold or otherwise provided to customers, unless the establishment holds the appropriate license for such sale or provision.

No person under the age of 21 years may participate in the making of wine in a wine-on-premises store.

E. Off-sale wine licenses

As discussed above, farm wineries can be issued a combination on-sale and off-sale license for the retail sale of their products. Under current law, only one other type of off-sale wine license can be issued.

1. Temporary off-sale wine licenses

Minn. Stat. § 340A.405, subd.
4

The governing body of a city or county may issue a temporary wine license for the off-sale of wine at an auction with the approval of the Commissioner of Public Safety. This type of license authorizes the sale of vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. “Vintage wine” means bottled wine that is at least five-years-old. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction.

According to the Department of Public Safety’s Alcohol and Gambling Enforcement Division, a list of wines that will be offered at the auction must accompany the application for the temporary off-sale wine license.

Part V. 3.2-percent malt liquor (beer), strong beer and brew pub licenses

A. 3.2 percent malt liquor (beer)

Minn. Stat. § 340A.403, subd.1

Cities may issue 3.2-percent malt liquor licenses (often referred to as “3.2 beer licenses”) for the on-sale or off-sale of beer within their jurisdictions. A city need not provide for 3.2-percent malt liquor licenses. However, if there are no 3.2-percent malt liquor licenses available, beer may only be sold under an intoxicating liquor license.

Minn. Stat. §§ 340A.101, subds. 19 and 14; 340A.416, subd. 1

See Part V - C - *Strong beer sales*

It appears that a city which has not received approval from its voters for intoxicating liquor sales at a local option election (i.e., a “dry” city) could still issue licenses for the sale of 3.2-percent malt liquor. This is because 3.2-percent malt liquor is not included in the definition of “intoxicating liquor.” Since the local option election is required in order to allow sale of “intoxicating liquor,” 3.2-percent malt liquor sales would not need such an election. The same would not hold true for strong beer, however, since it has an alcohol content above 3.2 percent.

Minn. Stat. § 340A.504, subds. 1, 3

Although somewhat less clear, it is arguable that the same would hold true for Sunday 3.2-percent malt liquor sales. Traditionally, Sunday elections have not been required in order for cities to issue 3.2-percent malt liquor licenses because such elections seek approval only for intoxicating liquor licenses. But even though a Sunday liquor election may not be needed in order to allow 3.2-percent malt liquor sales on Sundays, a person would still need to have a 3.2-percent malt liquor license that would be effective on Sunday in order to sell 3.2-percent malt liquor.

1. Off-sale 3.2-percent malt liquor (beer) licenses

Minn. Stat. § 340A.412, subd. 6

See Part III - B - 3 *On-sale/off-sale licenses combination*

The statutes do not include any detailed requirements for establishments that may be issued off-sale 3.2-percent malt liquor licenses. However, an off-sale intoxicating liquor license cannot be issued to a place where 3.2-percent malt liquor is sold for consumption on the premises. There is a limited exception from this restriction for establishments that have combination intoxicating liquor licenses.

2. On-sale 3.2-percent malt liquor (beer) licenses

Minn. Stat. § 340A.411, subd. 1

On-sale 3.2-percent malt liquor licenses may only be issued to the following types of establishments:

- Drugstores.
- Restaurants.
- Hotels.
- Clubs.
- Bowling centers.
- Golf courses.
- Establishments used exclusively for the sale of 3.2-percent malt liquor with the incidental sale of tobacco and soft drinks.

Minn. Stat. §§ 340A.403, subd. 3(a) and 340A.403 (b)

A person with an on-sale intoxicating license does not need to get an additional beer license to sell 3.2-percent malt beverages on-sale. Likewise, someone with an off-sale intoxicating liquor license does not need an additional license for the off-sale of 3.2-percent malt liquor.

Minn. Stat. § 340A.411, subd. 2

All retail 3.2-percent malt liquor licenses must be issued for one year. However, for the purpose of coordinating license expirations, the licenses may be issued for a shorter period of time. In this case, a pro rata license fee must be charged.

Minn. Stat. § 340A.411, subd. 3

Cities may not issue a 3.2-percent malt liquor license that includes the term “non-intoxicating malt liquor.” The term was changed by the Legislature several years ago and cities should update their ordinances to reflect this change in terminology. Cities should use the term “3.2-percent malt liquor” instead.

Minn. Stat. § 340A.408, subd. 1

See Appendix E. *License fees*

The license fee for on-sale and off-sale 3.2-percent malt liquor licenses is set by the city. There appears to be no specific limit on this license fee. However, cities should not exceed reasonable amounts.

3. Strong beer sales

Minn. Stat. § 340A.404, subd. 5(b)

A city council may, by ordinance, authorize a person to sell strong beer (more than 3.2-percent malt liquor) without an additional license if the person has BOTH of the following licenses:

- On-sale wine license.
- On-sale 3.2-percent malt liquor license.

Minn. Stat. § 340A.404, subd. 5(b)

In addition, the gross receipts of the establishment must be at least 60 percent attributable to the sale of food. If the person doesn't meet all of the above criteria, he or she must get an intoxicating liquor license in order to sell strong beer. Liquor liability insurance is also required for strong beer sales. The city must report an authorization for strong beer sales to the Commissioner of Public Safety.

See discussion at beginning of Part V 3.2-percent malt liquor (beer), strong beer and brew pub licenses.

As mentioned previously, the sale of "strong" beer (beer with more than 3.2-percent alcohol by weight) is not allowed in "dry" cities.

4. Temporary on-sale 3.2-percent malt liquor (beer) licenses

Minn. Stat. § 340A.403, subd. 2

Cities may issue temporary 3.2 percent malt liquor licenses. These licenses are subject to the terms set by the issuing city. The following types of establishments may be issued temporary 3.2-percent malt liquor licenses:

Minn. Stat. § 340A.101, subd. 7

See discussion in Part III - B - 2 Club licenses

- **A club.** The club must meet the same criteria outlined for clubs under the discussion of "club licenses." In short, it must be incorporated under state law, have more than 30 members, have owned or rented space in a building for more than one year, and have a board of directors.
- **A charitable organization.** No detailed definition of this type of organization is given in the liquor statutes. However, charitable organizations are incorporated under state statutes.
- **A religious organization.** The liquor statutes offer little guidance on what constitutes a "religious organization." Religious associations are incorporated under state statutes. It seems reasonable this provision would allow a temporary beer license to be issued to a church for a church function.
- **A non-profit organization.** The liquor statutes do not define this type of organization. However, non-profit organizations are incorporated under state statutes.

See Minn. Stat. ch. 309

See Minn. Stat. ch. 315

See Minn. Stat. ch. 317A

A city may issue a temporary 3.2-percent malt liquor license to authorize the sale of 3.2-percent malt liquor in any school or school buildings.

As with other liquor licenses, the city council should define the premises clearly so everyone knows where the beer must be consumed.

Cities are sometimes asked to issue temporary on-sale beer licenses to softball teams that want to sell beer at their games. However, unless the softball team qualifies as one of the above listed organizations (i.e., a non-profit organization), the city cannot issue the team a temporary beer license. If the team qualifies, the city should make sure the licensed premises are clearly defined and that consumption is limited to these premises. The licensee must also meet insurance requirements.

See Part IX - A - Insurance

B. Brewers and brew pub licenses

1. On-sale brew pub licenses

Minn. Stat. § 340A. 301, subd.
7

A city may issue a brewer or “brew pub” an on-sale intoxicating liquor or 3.2-percent malt liquor license if they meet the following criteria:

- Possess a liquor brewer/manufacturer license issued by the Commissioner of Public Safety.
- Operate a restaurant on the brewery premise.
- Manufacture fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, for consumption on the premises or for off-sale from the premises
- Does *NOT* have an ownership interest, in whole or in part, in any other licensed intoxicating liquor or malt liquor manufacturer, brewer, importer or wholesaler, except for a similarly licensed restaurant-based brew pub. In addition, the licensee cannot be an officer, director, agent or employee of a licensed manufacturer, brewer, importer or wholesaler.

Retail sales under this license at on-sale or off-sale (discussed below) may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

2. Off-sale brew pub or brewers licenses

Minn. Stat. § 340A. 301, subd.
7.

With the consent of the Commissioner of Public Safety, a city may issue a brewer or “brew pub” an off-sale intoxicating liquor or 3.2-percent malt liquor license if they meet the following criteria:

- Possess an on-sale brew pub license as discussed above and meet the criteria; *OR*
- Manufacture fewer than 3,500 barrels of malt liquor in a year under a valid brewer/manufacturers license issued by the Commissioner of Public Safety.

Retail sales under this license at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

With a “brew pub” off-sale license, the brewer may only sell at off-sale malt liquor manufactured on the premises. Sales made under this license must meet certain specific packaging requirements detailed in state statute.

Off-sale sales of malt liquor must be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores.

3. Temporary on-sale intoxicating liquor licenses for “brew pubs” or brewers

Minn. Stat. § 340A.404, subd. 10(c)

With the approval of the Commissioner of Public Safety, a city may issue to a brewer, who manufactures fewer than 3,500 barrels of malt liquor in a year, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

The license may authorize sales for up to four consecutive days. It may also authorize sales on premises other than premises the licensee owns or permanently occupies. It may also provide that the licensee can contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by the city. This type of situation is not the same as a caterer’s permit, which is discussed in further detail in a later section of this memo.

The temporary licenses are subject to the terms imposed by the city, including fees. Such licenses are not valid until approved by the Commissioner of Public Safety.

A city may issue a limited number of temporary licenses in a single year. In no case can a city issue more than 12 days worth of temporary licenses to a single organization per year. In addition, a municipality with a population of 5,000 or greater may not issue more than one temporary license for the sale of alcoholic beverages to any one organization or registered political committee, or for any one location, within any 30-day period unless the licenses are issued in connection with an event officially designated a community festival by the municipality.

A brew pub or brewer who obtains a temporary on-sale intoxicating liquor license must carry liability insurance in the amounts dictated by statute to cover dram shop claims related to the Civil Liability Act.

4. Brew-on-premises stores

Minn. Stat. § 340A.33.
27 C.F.R §§ 25.205 - .206.

A brew-on-premises store is a commercial establishment in which individuals make malt liquor on the premises for personal and family use only, and not for resale, using ingredients or materials or both supplied by the establishment. No license is required to operate a brew-on-premises store if the establishment is operated in accordance with federal regulations.

Alcoholic beverages may not be sold or otherwise provided to customers of a brew on premises store, unless the owner of the brew on premises store holds the appropriate liquor license.

Customers using the brew on premises store must be of the minimum age required to purchase intoxicating liquor.

5. Minnesota beer

Minn. Stat. § 340A.909, subd. 1

If beer will be sold on-sale at a government-owned building, the licensee must ensure a Minnesota-produced beer is available for purchase at each station where beer is sold.

Minn. Stat. § 340A.909, subd. 2

People who hold an event on property owned by the city are not required to make Minnesota-produced beer available if the following criteria are met:

- The event is conducted under a temporary permit from the city.
- Alcoholic beverages are provided to persons attending the event at no cost.

Part VI. Special permits

State statutes allow two special types of liquor permits, including the following:

- ***Consumption and display permits.*** This permit allows the permittee to serve beverages (such as flavored soda) that a customer can mix with alcohol brought by the customer. Customers must consume such beverages on the premises. These permits are issued by the Commissioner of Public Safety on an annual basis or the city on a temporary one-day basis.
- ***Caterers permit.*** This permit allows a restaurant with a regular intoxicating on-sale license to sell intoxicating liquor and food at a catered event that is held off the usual licensed premises. The Alcohol and Gambling Enforcement Division requires the restaurant to have liquor liability insurance that states it “covers all catered events” and a restaurant license issued by the Department of Health. This permit is not be used without the sale of food.

A. Consumption-and-display (“set-up”) permits

Minn. Stat. § 340A.414, subds. 1, 5

Consumption-and-display permits (commonly called “set-ups” or “bottle club” permits) are issued by the Commissioner of Public Safety. These permits are not effective until approved by the city council. Consumption and display permits allow the serving of liquids for the purpose of mixing with liquor that is brought by the customer.

The Commissioner of Public Safety may issue consumption-and-display permits to the following eligible individuals, provided the applicants meet the following criteria:

- A person who has **NOT** been convicted of a felony in the last five years.
- A person who has **NOT** been convicted of violating any liquor laws or rules in the last five years.

In addition to the above criteria, the establishment must be one of the following in order to be eligible for a consumption-and-display permit:

- **A restaurant.** Storage of alcohol that a person brings is not allowed. The alcohol must be under its owner’s control at all times.
- **A hotel.** Storage of alcohol that a person brings is not allowed. The alcohol must be under its owner’s control at all times.
- **An establishment licensed for the sale of 3.2 percent malt liquor.** Storage of alcohol that a person brings is not allowed. The alcohol must be under its owner’s control at all times.
- **A licensed resort.** Storage of alcohol that a person brings is not allowed. The alcohol must be under its owner’s control at all times.
- **Certain bed-and-breakfast facilities.** The bed-and-breakfast facility must meet the criteria for exemption from the wine licensing requirements discussed above.
- **A club.** A club that has issued a consumption-and-display permit can let members leave their alcohol on the premises after they leave. However, the bottle must be placed in an individual locker and cannot be left at the bar. The bottle must have a label attached to it that is signed by the member who owns the bottle. Sometimes these clubs are referred to as “bottle clubs.”

A consumption-and-display (set-up) permit authorizes the establishment to allow the consumption and display of intoxicating liquor on the licensed premises. The permit does not authorize the sale of intoxicating liquor.

No establishment may allow a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor during the following hours:

- Between the hours of 1 a.m. and 8 a.m., Monday through Saturday.
- Between the hours of 1 a.m. and noon on Sundays.

All consumption-and-display permits expire on March 31 of each year.

Minn. Stat. § 340A.414, subd. 2. Minn. R. § 7515.1220, subps. 2 and 3

Minn. Stat. § 340A.414, subd. 2 Minn. R. § 7515.1220, subps. 2 and 3

Minn. Stat. § 340A.414, subd. 2(4). Minn. R. § 7515.1220, subps. 2, 3

Minn. Stat. § 340A.414, subd. 2. Minn. R. § 7515.1220, subps. 2 and 3. Minn. Stat. § 157.15

Minn. Stat. § 340A. 414 subd 2 (7).

See also Part IV-A – 2 *On-sale wine licenses.*

Minn. Stat. § 340A.101, subd. 7; Minn. Stat. § 340A.414, subd. 8; Minn. R. § 7515.1220, subp. 1

Minn. Stat. § 340A.414, subd. 3

Minn. Stat. § 340A.504, subd. 5

Minn. Stat. § 340A.414, subd. 4

B. Temporary consumption and display permit

Minn. Stat. § 340A.414, subd. 9

Cities may issue a one-day consumption-and-display permit to a non-profit organization in conjunction with a social activity in the city sponsored by the organization. The permit must be approved by the Commissioner of Public Safety in order to be valid and is valid only for the day indicated on the permit. A city may not issue more than 10 one-day permits in any year. The fee for such a permit may not exceed \$25.

C. Caterer's permit

Minn. Stat. § 340A.404, subd. 12

The Commissioner of Public Safety may issue a caterer's permit to a restaurant that holds an on-sale intoxicating liquor license issued by any municipality. A caterer's permit allows the permit holder to sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the licensee's intoxicating liquor license is issued.

Minn. Stat. § 340A.404, subd. 12

A caterer's permit is auxiliary to the primary on-sale liquor license held by the licensee. The restrictions and regulations that apply to the sale of intoxicating liquor on the licensed premises also apply to those sales made under the caterer's permit. Revocation of the caterer's primary on-sale intoxicating liquor license results in revocation of their auxiliary caterer's permit.

Minn. Stat. § 340A.404, subd. 12

The permittee must notify one of the following individuals prior to any catered event:

- The police chief of the city in which the event will occur.
- The county sheriff, if the event will take place outside the corporate limits of a city.

Part VII. Licensing

Country Liquors, Inc. v. City Council of City of Minneapolis, 264 N.W.2d 821 (1978).

A.G. Ops. 218g-6 (Oct. 6, 1944) and (Mar. 1, 1963)

Cities generally have broad discretion when it comes to making licensing decisions. The Minnesota Supreme Court and the attorney general have said that whether a liquor license should be issued or renewed rests in sound discretion of the council. In another opinion, the attorney general concluded a city is not required to issue the full number of licenses it has available.

Country Liquors, Inc. v. City Council of City of Minneapolis, 264 N.W.2d 821 (1978).

Sabes v. City of Minneapolis, 265 Minn. 166, 120 N.W.2d 871 (1963)

Cleveland v. Rice County, 238 Minn. 180, 56 N.W.2d 641 (1952)

Wajda v. City of Minneapolis, 310 Minn. 339, 246 N.W.2d 455 (1976)

Paron v. City of Shakopee, 226 Minn. 222, 32 N.W.2d 603 (1948)

George Benz Sons, Inc. v. Ericson, 227 Minn. 1, 34 N.W.2d 725 (1948)

Lyon County JVB Enterprises, Inc. v. City of Marshall, C7-90-806

The Minnesota Supreme Court has concluded there is no right to a liquor license and that city councils have discretion when it comes to issuing licenses. In one case, the court held that a liquor license “is not a property right, but is in the nature of a privilege, and, as such, subject to reasonable regulation.” The Minnesota Supreme Court has also stated, “no citizen has an inherent or vested right to sell intoxicating liquors, and municipal authorities have broad discretion within their geographical jurisdiction to determine the manner in which liquor licenses shall be issued, regulated, and revoked.”

In another decision, the Minnesota Supreme Court found that the granting of a license rests in the sound discretion of the council, but such discretion cannot be exercised arbitrarily. This means cities should have valid reasons to justify their denial of a license.

There is generally no right to renewal of a license. The Minnesota Supreme Court has held that once licensed, one cannot acquire a vested right to continue.

Likewise, in an unpublished decision, the court found there is no property interest in a license.

A. Applicant eligibility

[Minn. Stat. § 340A.402](#)

State statute sets general criteria a person must meet in order to be eligible for a liquor license. State law prohibits issuing licenses to the following people:

[Minn. Stat. § 340A.402 \(1\)](#)

- A person under 21-years-of-age.

[Minn. Stat. § 340A.402 \(2\)](#)

- A person who has had an intoxicating or 3.2-percent malt liquor license revoked within five years of the license application.

[Minn. Stat. § 340A.402 \(2\)](#)

A person who at the time of a liquor license violation:

- Owns any interest in the premises;
- Holds more than 5 percent of the capital stock of a corporation licensee; or
- Was a partner in the business or firm where the violation occurred.

[Minn. Stat. § 340A.402 \(3\)](#)

- A person not of good moral character and repute.

[Minn. Stat. § 340A.402 \(4\)](#)

- A person with a direct or indirect interest in a liquor manufacturer, brewer or wholesaler.

Minn. Stat. § 340A.402

In addition, no new retail license may be issued to and cities may refuse to issue or renew a license to a person who has been convicted of a felony or a willful violation of federal, state or local ordinance governing the manufacture, sale, distribution or possession for sale or distribution of an alcoholic beverage within five years of the license application. The city or the Alcohol and Gambling Enforcement Division may require applicants to provide fingerprints that will be forwarded to the Federal Bureau of Investigation for purposes of a criminal history check.

The establishment must also meet certain criteria, depending on the type of liquor license. These criteria are discussed in detail under the various sections of this memo that deal with specific types of licenses. Cities often apply additional standards for applicants and premises in their ordinances.

B. Background checks

Minn. Stat. § 340A.412, subd. 2(a)

The city must conduct a preliminary background and financial investigation of all applicants and transfer applicants for on-sale intoxicating licenses. The city also may conduct a background check upon a request for renewal of a license. The application must be in the form prescribed by the Commissioner of Public Safety with any additional information the city may require.

Minn. Stat. § 340A.412, subd. 2(a)

If questions arise as a result of the preliminary background check, cities may want to do a more thorough investigation. If the city or the Commissioner of Public Safety determines that a comprehensive background check and investigation of an applicant is necessary, the city may conduct the investigation or contract with the Commissioner for the investigation.

An investigation fee may be charged as follows:

- The fee may not exceed \$500 if the investigation is conducted within the state.
- The fee may not exceed the actual cost of the investigation, but not more than \$10,000, if the investigation is required outside the state.

Minn. Stat. § 340A.412, subd. 2(b)

No license may be issued, transferred or renewed if the results of the investigation show that the issuance, transfer or renewal would not be in the public interest.

C. Number of licenses

See Appendix D. *Number of licenses*

State statutes set limits, based upon population, for the number of licenses a city may issue. (A later section of this memo contains a table that provides the specific limits on the number of licenses that may be issued.) Recent changes in state law, however, allow cities to exclude certain common licenses from their count towards the statutory limit. For most cities, the change in the law eliminates concerns about license limits. State statutes set the number of licenses cities may issue for the following types of licenses:

- Off-sale intoxicating.
- On-sale intoxicating.
- Temporary on-sale intoxicating.
- Temporary consumption-and-display permits.

Under recently revised state law, on-sale intoxicating liquor licenses issued to restaurants, theaters, hotels, and bowling centers will not count against the total number of on-sale licenses that a city may issue. Although the statutes are silent regarding on-sale/off-sale combination licenses, these licenses are probably counted as both an on-sale and an off-sale license.

For some types of licenses, there are no specific limits and the city may determine the maximum number of licenses it will issue or allow. The following are examples of such types of licenses:

- On-sale intoxicating club licenses.
- On-sale intoxicating liquor licenses issued to restaurants, theaters, hotels, and bowling centers.
- Wine licenses.
- Sunday liquor licenses.
- On-sale 3.2-percent malt liquor licenses.
- Off-sale 3.2-percent malt liquor licenses.
- Consumption-and-display permits.

It is important to note that cities are not required to issue all of the licenses available to a city under state statute. Many cities choose to set the allowed number of licenses at a reasonable number below the state maximum in their local ordinance. The Minnesota Supreme Court has noted “a city council has the power to refuse a license or to limit the number of licenses to be granted, when, in the judgment of the council, the welfare of the city suggests such action.”

Polman v. City of Royalton,
311 Minn. 555, 249 N.W.2d
466 (1977).

Polman v. City of Royalton,
311 Minn. 555, 249 N.W.2d
466 (1977)

A city that chooses to limit the number of licenses in its local ordinance, can later revise its ordinance to accommodate new licensees whose establishments will promote the welfare of the city. For example, a city might not desire to have numerous exclusive on-sale liquor establishments located along the short length of its main street. As a result, the city may choose to limit the number of licenses available to a smaller number than allowed by state statute. Later, the same city may determine that it would prefer to allow an additional license for a potential lodging establishment or restaurant, because such establishment will attract tourists, provide employment and improve the quality of life in the community. The decision to revise the ordinance to provide for an additional license is considered a legislative decision. A court will only overturn a legislative decision of a city council when it determines that “the city council has acted arbitrarily, capriciously, or unreasonably.” This standard of review provides cities with the greatest deference available under law.

D. Fees

[Minn. Stat. § 340A.408](#)

See Appendix E. *License fees*

State law sets the limits on what fees may be charged for certain types of liquor licenses

Where there is no state restriction, the city may set the fee. The fee amount is intended to reflect the cost of issuing the license and other costs directly related to the enforcement. License fees may not be used as a means of raising revenues.

Dunham’s Food & Drink v. City of West St. Paul, 526 N.W.2d 413 (Minn. Ct. App. 1995)

A 1995 Minnesota Court of Appeals decision found that a city’s costs of issuing, inspecting, and enforcing liquor licenses justified the fee for an intoxicating liquor license being raised from \$2,500 to \$2,750.

[Minn. Stat. § 340A.408, subd. 3\(a\)](#)

In order to raise the amounts of some liquor license fees, the city must first hold a hearing. The city must give mailed notice of the hearing to all affected licensees at least 30 days before the hearing. This requirement applies to the following types of liquor licenses:

- On-sale intoxicating liquor licenses.
- Off-sale intoxicating liquor licenses.
- 3.2-percent malt liquor licenses.

Even though the statutes do not specifically require notice and a hearing for other types of liquor licenses, many cities include all liquor license holders in these proceedings.

1. Mandatory fee reduction for certain off-sale liquor licensees

Minn. Stat. § 340A.408, subd 3 (c).

Cities must reduce the fee for off-sale intoxicating liquor licenses for licensees who agree to participate in programs that reduce underage drinking. Off-sale liquor licensees are entitled to a mandatory \$100.00 fee reduction if they do *all* of the following at the time of application and before any renewal:

- Agree to have a *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.
- Post a policy requiring identification checks for all persons appearing to be 30 years old or less.
- Establish a *cash* award and incentive program to award employees who catch underage drinkers, and a penalty program to punish employees in the event of a failed compliance check before the license is issued or renewed.

The fee reduction is mandatory when licensees can establish that they have complied with the state statute requirements. As a result, the city may need to revise its ordinance to provide for the fee reduction and establish criteria for awarding the fee reduction.

Off-sale intoxicating liquor licensees may opt not to take advantage of the provisions of the statute and not request the fee reduction.

See Appendix F, *LMC sample liquor licensing and regulation ordinance*

Sample ordinance language regarding this provision can be found in the sample liquor ordinance at Appendix F.

E. Establishment location

Minn. Stat. § 340A.412, subd. 4(a)

In addition to the criteria an applicant and the establishment must meet to be eligible for a particular liquor license, the establishment must also meet criteria. These criteria are discussed in further detail under the different sections of this memo that address specific types of licenses. State statute prohibits issuing intoxicating liquor licenses in the following areas:

Minn. Stat. § 340A.412, subd. 4(a) (1)

- Areas restricted against commercial use through zoning ordinances and other proceedings, or legal processes regularly had for that purpose. Licenses may continue to be issued to restaurants in areas that were restricted against commercial uses after the establishment of the restaurant.

Minn. Stat. § 340A.412,
subd. 4(a) (5)

- Within 1,000 feet of a state hospital, training school, reformatory, prison or other institution under the supervision or control of the Commissioner of Human Services or the Commissioner of Corrections. This limitation applies whether the institution is entirely or partly under the control or supervision of these persons.

Minn. Stat. § 340A.412,
subd. 4(a) (6)

- In a town or city in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it.

Minn. Stat. § 340A.412,
subd. 4(a) (8)

- Within 1,500 feet of a state university (although there are some limited exceptions in certain circumstances for Winona State, Southwest State University, St. Cloud State, and Mankato State. A temporary on-sale license may be issued to a location on the grounds of a state university for an event sponsored or approved by the state university.)

Minn. Stat. § 340A.412,
subd. 4(a) (9)

- Within 1,500 feet of any public school that is not within a city.

Minn. Stat. § 340A.412,
subd. 4(b)

The above limitations do not apply to manufacturers and wholesalers. Likewise, they do not apply to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967. There are other specific locations that are prohibited such as the Capitol grounds, state fairgrounds, and the University of Minnesota, although there are some limited exceptions under certain circumstances. Contact the League if you have questions regarding other specific locations.

F. License applications and penalties

As stated earlier, a city council has wide discretion in making licensing decisions. But the council must not act arbitrarily or capriciously. It is suggested that cities document reasons for denials, suspensions, and revocations of license applications or renewals.

Minn. R. § 7515.0430,
subp. 5

If the license is for the spouse or relative of a council member, the council member may not participate in the licensing decision. This probably includes the discussion as well as the voting on the license application.

Minn. Stat. § 340A.101,
subd. 15

All licenses should clearly define the premises that are being licensed for the sale of liquor. Parking lots should normally be excluded from the premises as it might lead people to think they can consume beverages in their cars. For the purpose of golf courses, state law prohibits including in the licensed premises areas where motor vehicles are driven.

Minn. Stat. § 340A.410,
subd. 7

Cities may issue licenses only to those areas that are compact and contiguous.

1. Renewal and denial

The following situations have been held to be valid reasons for denying license applications or renewals:

Polman v. City of Royalton,
249 N.W.2d 466 (Minn.
1977)

*Gar-Dar, Inc. v. City of
Minneapolis*, C5-97-715
(Minn. Ct App. 1977)
unpublished decision

Knudtson v. City of Coates,
519 N.W.2d 166 (Minn.
1994)

*Bergmann v. City of
Melrose*, 420 N.W.2d 663
(Minn. Ct. App. 1988)

*Godfather's, Inc. v. City of
Bloomington*, 375 N.W.2d
68 (Minn. Ct. App. 1985)

*Anton's, Inc. v. City of
Minneapolis*, 375 N.W.2d
504 (Minn. Ct. App. 1985)

*Wajda v. City of
Minneapolis*, 246 NW2d
455 (Minn. 1976)

*Tamarac Inn, Inc. v. City of
Long Lake*, 310 NW2d 474
(Minn. 1981)

[Minn. Stat. § 340A.415](#)

[Minn. Stat. §§ 14.57 - .69](#)

[A.G. Op. 218g-14 \(Nov. 5,
1976\)](#)

[Minn. Stat. § 340A.415](#)

- Council finding that existing three liquor establishments fulfill needs of community, and another establishment would overtax city's limited traffic and law enforcement facilities.
- Documentation of several liquor law violations.
- Allowing nude dancing on the licensed premises when the city's ordinance prohibited this activity in licensed liquor establishments.
- Unpaid taxes of establishment.
- The applicant's prior problems in another location.
- Denial based upon specific objections raised by the community's residents whose lives would be directly affected.

The Minnesota Supreme Court found that the denial of a liquor license was arbitrary and capricious in the following cases:

- Denial on the grounds that the premises were unsuitable. In this instance, the previous owner had operated a tavern at the premises for the previous 20 years.
- Denial for failure to complete the restaurant facility and several ordinance violations. The restaurant was within days of completion and the ordinance violations were no more severe than those of other establishments that were not denied licenses.

2. Suspension and revocation

Once a license has been issued, the license holder has a right to due process before the license can be taken away either by suspension or revocation.

Suspension or revocation of a liquor license cannot take effect until the licensee has been given an opportunity for a hearing under the Administrative Procedure Act. The attorney general has concluded it is not necessary for a city to use a state hearing examiner to conduct the hearing.

The Commissioner of Public Safety or the city may suspend a license if the licensee has done any of the following:

- Sold alcoholic beverages to another retail licensee for the purpose of resale.
- Purchased alcoholic beverages from another retail licensee for the purpose of resale.
- Conducted or allowed gambling on the licensed premises in violation of the law.

- Failed to remove or dispose of alcoholic beverages when ordered by the Commissioner to do so under section 340A.508, subd. 3.
- Failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages.

The city or Commissioner of Public Safety may do any of the following to enforce the above restrictions:

- Revoke the license or permit.
- Suspend the license or permit.
- Impose a civil penalty of up to \$2,000 for each violation.

City councils that are considering license suspension or revocation should consult with their city attorneys before beginning the process to ensure the due process rights of the licensee are considered.

C.L. Hinze, Inc. v. City of St. Paul, C8-95-1398 (Minn. Ct. App. 1996) unpublished decision; *DRJ, INC., d/b/a Diva's Overtime Lounge, v. City of St. Paul*, No. A07-1599 (Minn. Ct. App. 2008)

3. Civil penalties

Minn. Stat. § 340A.415

Both the Commissioner of Public Safety and cities have the power to impose a civil penalty against a licensee who violates liquor regulations. Although a hearing under the Administrative Procedure Act is required before a license can be suspended or revoked, there is no similar requirement when imposing a civil penalty. Cities can use a less formal hearing to give the licensee due process. The maximum penalty that can be imposed is \$2,000.

Imposition of a penalty or suspension by the Commissioner of Public Safety or the city does not preclude the other from imposing an additional penalty as long as the total penalty or suspension does not exceed the statutory maximum.

Some cities have adopted penalty fees that increase if a violation is repeated by a license holder within the same year.

Part VIII. Regulation of liquor sales

Contact [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) at (651) 215-6209 for further information.

Liquor is regulated at several different levels. Federal regulation exists for manufacture, shipment, and sales. The state regulates wholesale and retail sales through the Department of Public Safety's Alcohol and Gambling Enforcement Division. Local governments, such as cities, counties, and towns, also regulate retail sales through their licensing ordinances.

Wholesale liquor operations are generally regulated at the state level. The Commissioner of Public Safety is responsible for licensing these liquor vendors.

Retail liquor operations are regulated at both the state and local levels. Except in a few limited circumstances, all persons who sell liquor at retail must have the appropriate liquor license or permit. This section of the memo discusses some of the ways liquor sales are regulated by the state, as well as several ways cities have regulated sales.

A. Days of sales

Minn. Stat. § 340A.504;
*A/A, Inc. v. City of
Faribault*, 569 NW2d 546
(Minn. Ct. App. 1997)

Cities may not prohibit sales on days the statutes allow, although they may further limit the hours of sales. The statutes prohibit the on-sale of liquor only on the following days:

- On any day during hours when the sale of liquor is illegal. For example, in a city that has set more restrictive hours, sales would be prohibited outside of these hours.
- On Sundays (unless Sunday sales have been approved at an election).

The statutes prohibit off-sale of liquor only on the following days:

- On any day during hours when the sale of liquor is illegal. For example, in a city that has set more restrictive hours, sales would be prohibited outside of these hours.
- Sundays.
- Thanksgiving day.
- Christmas.
- Christmas eve (after 8 p.m.).

People are often unsure about whether liquor sales are permitted on certain days. Liquor sales on many of these days were at one time prohibited, but these restrictions have since been eliminated. Off-sale is not prohibited on the following days, unless they happen to fall on a Sunday:

- Election Day.
- New Year's Day.
- Fourth of July.
- Labor Day.
- Memorial Day.

On-sale is also permitted on the above days unless they happen to fall on a Sunday and the city has not received approval of Sunday liquor.

B. Hours

A/A, Inc. v. City of Faribault, 569 NW2d 546 (Minn. Ct. App. 1997)

Minn. Stat. § 340A.504, subd 6.

Minn. Stat. § 340A.504

Cities may restrict the hours of sale beyond those in the statutes via local ordinance. They cannot, however, expand the hours. The Minnesota Court of Appeals Court ruled in a 1997 decision that cities lack the authority to limit the days, as opposed to the hours, of sale of alcoholic beverages.

According to state statute, no on-sale of liquor may be made at the following times:

- Between 2 a.m. and 8 a.m., Mondays through Saturdays.
- On Sunday, unless the city has adopted Sunday liquor.

State statute prohibits the off-sale of liquor at the following times:

- On Sundays.
- Before 8 a.m., Monday through Saturday.
- After 10 p.m., Monday through Saturday.

Minn. Stat. § 340A.504, subd. 6

A municipality may further limit the hours of sale provided that further restricted hours must apply equally to sales of 3.2-percent malt liquor and intoxicating liquor. A city may not permit the sale of alcoholic beverages during hours prohibited by state law.

The LMC Research and Information Service can be reached at (651) 281-1200 or 1-800-925-1122.

Many cities have ordinances that require customers to leave the licensed premises within a certain amount of time after the sale of liquor has stopped. Some ordinances also apply these limits upon the employees in such establishments. These “evacuation” clauses can help to eliminate excessive beverage sales at last call and continued drinking after the hours for selling liquor on-sale are past. Contact the League to request sample ordinances with such provisions.

C. Gambling

Minn. Stat. § 340A.410, subd 5(a)

Minn. Stat. §§ 349.30 and 609.761, subd. 4

Minn. Stat. § 340A.410, subd 5(b)

Minn. Stat. ch. 349

See Public Law Number 100-497

Generally, no retail establishment licensed to sell alcoholic beverages may keep, possess, operate or permit the keeping, possession or operation on the licensed premises of dice or any gambling device as defined in state statute or permit gambling. There are certain limited exceptions.

Certain types of gambling equipment may be kept or operated on licensed premises. Such equipment and raffles may be conducted on licensed premises and adjoining rooms when specifically authorized by the following:

- State gambling statutes.
- A tribal ordinance in conformity with the Indian Gaming Regulatory Act.

Minn. Stat. § 3.9221

Minn. Stat. § 340A.410,
subd 5(c)

Minn. Stat. ch. 349A

Minn. Stat. § 340A.410, subd
5(d)

Minn. Stat. § 609.761, subd. 4

- A tribal-state compact negotiated and authorized by the Minnesota Legislature under the Indian Gaming Regulatory Act.
- Lottery tickets may be sold within the licensed premises when authorized by the director of the lottery.
- Dice may be kept and used on the licensed premises and adjoining rooms in limited circumstances. These circumstances are limited to board games played with dice or commonly known social dice games such as the following:
 - “shake-a-day”
 - “3-2-1”
 - “who buys”
 - “last chance”
 - “liar’s poker”
 - “6-5-4”
 - “horse”
 - “aces”

In addition, the wagers or prizes for these dice games must be limited to food or beverages and the establishment may not organize or participate financially in the games.

Minn. Stat. § 609.761,
subd. 3

Tournaments or contests for “social skill” games may be conducted for the following games:

- “cribbage”
- “skat”
- “sheephead”
- “bridge”
- “euchre”
- “pinochle”
- “gin”
- “500”
- “smear”
- “Texas hold’em”
- “whist”

Social skill game tournaments or contests may only be conducted if they do not provide any direct financial benefit to the promoter or organizer. The value of all prizes awarded for each tournament or contest may not exceed \$200.

Special additional rules apply to “Texas hold’em” tournaments. In these tournaments or contests:

No person under 18 years of age may participate.

- The payment of an entry fee or other consideration for participating is prohibited.
- The value of all prizes awarded to an individual winner of a tournament or contest at a single location may not exceed \$200 each day.
- The organizer or promoter must ensure that reasonable accommodations are made for players with disabilities. Accommodations to the table and the cards shall include the announcement of the cards visible to the entire table and the use of Braille cards for players who are blind.

D. Adult entertainment

Knudson v. City of Coates,
519 N.W.2d 166 (Minn.
1994)

There appear to be no restrictions in state statute regarding adult entertainment and liquor license eligibility. However, in a recent decision, the Minnesota Supreme Court found that a city's ordinance prohibiting nudity in bars did not violate the free speech provision of the Minnesota Constitution.

In this decision, the city's liquor ordinance prohibited nudity in licensed liquor establishments. The city denied renewal of the liquor license because the owner had allowed nude dancing in the establishment. The court found that the city's regulation of nudity in bars may be accomplished if the following factors were met:

- The regulation only had incidental impact on freedom of expression.
- The regulation concerning expressive conduct is reasonable as to time, place, and manner of expression.

As a result, the city's denial of the license renewal was found to be proper.

E. Liquor and underage persons

The legal drinking age in Minnesota is 21. State laws are strict regarding underage people and liquor, and many city police departments perform regular compliance checks in licensed establishments to ensure sales to underage people are not made.

1. Underage drinkers

[Minn. Stat. § 340A.503](#)

It is unlawful for a person under 21 to consume, purchase or possess any alcoholic beverage. It is unlawful for anyone under 21 to enter a liquor establishment with the intent of being served alcohol.

However, a person who is 18, 19 or 20 may enter an establishment for the following purposes:

- To perform work for the establishment, including the serving of alcoholic beverages. A city may **NOT** adopt an ordinance that prohibits this.
- To consume meals.
- To attend social functions that are held in a portion of the establishment where liquor is not sold.

Minn. Stat. § 340A.412, subd. 10; Minn. Stat. § 181A.115

No person under 18 may serve or sell intoxicating liquor in a retail intoxicating establishment. Generally, the Minnesota Child Labor Standards Act prohibits the employment of persons under 18 in rooms or areas in which intoxicating liquor or 3.2 malt liquor is sold or consumed. Lawful work by minors may be performed elsewhere on the premises of a liquor licensee, provided that the minor does not enter or work in a room in which liquor is sold or consumed.

However, unless restricted by local ordinance, minors who have reached the age of 16 may be employed to provide musical entertainment or perform busing, dishwashing or hosting services in rooms or areas of a restaurant, hotel, motel or resort where the presence of intoxicating liquor or 3.2 malt liquor is incidental to food service or preparation.

2. Compliance checks

Some cities conduct regular compliance checks to help ensure sales are not made to underage people. Generally, such programs are set up through the police department. A young person will enter a licensed premise and attempt to buy alcohol and report the results of the attempt to an officer who witnesses the transaction from a distance.

3. Incentive program for off-sale intoxicating liquor licensees

Cities must reduce the fee for off-sale intoxicating liquor licenses for licensees who agree to participate in programs that reduce underage drinking. Off-sale liquor licensees are entitled to a mandatory \$100.00 fee reduction if they do *all* of the following at the time of application and before any renewal:

- Agree to have a *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.
- Post a policy requiring identification checks for all persons appearing to be 30 years old or less.

See Part VII-D-1, *Mandatory fee reduction for certain off-sale liquor licenses.*

- Establish a *cash* award and incentive program to award employees who catch underage drinkers, and a penalty program to punish employees in the event of a failed compliance check before the license is issued or renewed.

F. Beer keg sales

Minn. Stat. § 340A.513,
subd. 2

No off-sale retailer may sell beer kegs unless the retailer affixes an identification label or tag to each beer keg. Identification labels must consist of a durable material that is not easily damaged or destroyed. Identification tags must be attached to the keg by a durable means. Both labels and tags must be attached at the time of sale.

Minn. Stat. § 340A.513,
subd. 2

The identification information shall include the following:

- The retailer's name, address and telephone number.
- A unique beer keg number assigned by the retailer.
- A prominent visible warning that the intentional removal or defacement of the label is a criminal offense.

Upon return of the keg, the retailer is responsible for removal of the tag or label. The label or tag must be kept on file with the retailer for not less than 90 days from the date of return.

Minn. Stat. § 340A.513,
subd. 4

At the time of sale, a retailer that sells a keg must record the following information:

- The number of the purchaser's driver's license, Minnesota identification card, military identification card, or valid U.S. or foreign passport.
- The date and time of the purchase.
- The beer keg identification number.
- The purchaser's signature.

Minn. Stat. § 340A.513,
subd. 5

This record must also be retained for not less than 90 days. The retailer must make these records available during regular business hours for inspection by a peace officer or an agent of the Commissioner.

G. Common local restrictions

Minn. Stat. § 340A.509

A local authority may adopt an ordinance to impose further restrictions and regulations on the sale and possession of alcoholic beverages within its limits. Some of the more common types of local regulations include the following:

Bergmann v. City of Melrose,
420 N.W.2d 663 (Minn. Ct.
App. 1988)

- **Taxes and fees.** It is common to find requirements that all property taxes, special assessments, charges, and fees are kept current. Delinquent accounts must be paid.

- **Insurance.** Some cities require additional insurance coverage beyond the minimum requirements in statute.
- **Limiting the number of licenses issues.** Some cities choose to issue fewer licenses than the maximum number of licenses allowed under state law.
- **Adult entertainment.** Many cities prohibit nudity in licensed establishments.
- **Security.** Some cities require that a security person (police or bouncer) be present.
- **Zoning.** Many cities prohibit liquor establishments from being located within a certain distance of schools or churches or in non-commercially zoned areas of the city. If a city chooses to impose a distance restriction, it should clearly define how the distance would be measured. For example, will it be measured from property line to property line? From the main entrance of each building? In a direct line between the entrances of each building or following the sidewalk?
- **Server training.** Some cities have required that a licensee provide training to its bartenders regarding serving liquor to customers. This can help a server to learn to recognize an intoxicated person or a false identification card.
- **Enforcement schedules.** Some cities have provided schedules that impose increasingly strict penalties for violations that occur within the same year.
- **Evacuation clauses.** Many cities require that customers must leave the licensed premises within a certain period of time after liquor sales have stopped. Some also require employees to be off the premises within a certain time after closing.
- **Inactive licenses.** Some cities will have licenses expire if they have not been used for a certain time period.

Part IX. Liquor liability

Minn. Stat. § 340A.501

Minn. Stat. §§ 340A.701,
340A.702, 340A.703.

Every licensee is responsible for the conduct in their licensed establishment. Any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee for the purposes of all provisions of this chapter except for certain felonies, gross misdemeanors, and misdemeanors.

A. Insurance

Minn. Stat. §§ 340A.801 and 340A.409

Minn. Stat. § 340A.509

No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to civil liability or dram shop actions. This applies to all types of retail liquor licenses, with a couple of limited exceptions. The city must submit to the Commissioner of Public Safety the applicant's proof of financial responsibility. A local government may require higher insurance or bond coverages or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility is:

Minn. Stat. §§ 60A.07, subd. 4 and 60A.206

- A certificate that there is in effect for the license period an insurance policy issued by an insurer providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, \$100,000 for loss of means of support of two or more persons in any one occurrence, \$50,000 for other pecuniary loss of any one person in any one occurrence, and \$100,000 for other pecuniary loss of two or more persons in any one occurrence. .
- A bond of a surety company with minimum coverages as provided in the previous bulleted paragraph.
- A certificate of the state treasurer that the licensee has deposited with the state treasurer \$100,000 in cash or securities, which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

An insurer may provide the above coverage in combination with other insurance coverage.

Minn. Stat. § 340A.409, subd. 4

The above insurance requirements do not apply to licensees who establish by affidavit any one of the following:

- They are on-sale 3.2-percent malt liquor licensees with sales of less than \$25,000 in the preceding year.
- They are off-sale 3.2-percent malt liquor licensees with sales of less than \$50,000 in the preceding year.
- They are on-sale wine licensees with sales of less than \$25,000 in the preceding year.
- They are temporary wine licensees.
- they are wholesalers who donate wine to an organization for a wine tasting conducted under Minn. Stat. 340A.418 or 340A.419.

Insurance is required for temporary 3.2-percent malt liquor licenses since there is no specific exclusion from the insurance requirement. For risk management purposes, cities should consider requiring proof of insurance from all liquor licenses regardless of whether it is required by state law.

Insurance requirements for liquor licensees serve two important functions:

- They help to protect the public in that any damages or injuries that occur will be covered by insurance.
- They help to protect the licensee from the cost of defending a lawsuit or paying a valid claim for injuries or damages.

Minn. Stat. 340A.409

State law requires the insurance company to notify the city when a liquor licensee's insurance is canceled.

B. Illegal sales

Minn. Stat. § 340A.801-802

State law gives the right to pursue a civil action to any person injured in person, property or means of support by an intoxicated person. The civil action may include whoever caused the intoxication of the person by illegally selling them alcoholic beverages.

DRJ, INC., d/b/a Diva's Overtime Lounge, v City of St. Paul, No. A07-1599 (Minn. Ct. App. 2008). (unpublished decision.)

Cities may pursue criminal actions against licensees who violate state statutes and local ordinances. Civil penalties, license suspension, and license revocation are other possibilities for licensees who break laws.

Illegal sales include the following:

Minn. Stat. § 340A.502

- ***Sales to intoxicated people.*** No person may sell, give, furnish or in any way procure alcoholic beverages for the use of an obviously intoxicated person.

Minn. Stat. § 340A.504

- ***Sales during prohibited hours.***
- ***Sales during prohibited days.***

Minn. Stat. § 340A.702;
Clark v. Peterson, 741 N.W.2d 136 (Minn.App.,2007).

- ***Sales without the proper license.*** It is a gross misdemeanor for a person to sell an alcoholic beverage without a proper license.

Minn. Stat. §§ 340A.503 and 340A.412, subd. 10;

See Part VIII - E - *Underage drinkers*

- ***Sales to underage people.*** This is discussed in detail in another section of this memo.

Minn. Stat. § 340A.505

- ***Sales for resale.*** A retail licensee may not sell alcoholic beverages to any person for the purpose of resale or to any person whom the licensee has reason to believe intends to resell the alcoholic beverage without written approval of the Commissioner.

Minn. Stat. § 340A.501

In addition to the above, a licensee is responsible for the conduct in the establishment. The licensee should ensure the business has policies in place that will help to prevent illegal sales.

*Englund v. MN CA
Partners/MN Joint Ventures,
555 N.W.2d 328 (Minn. Ct.
App. 1996) aff'd. 565 N.W.2d
433 (Minn. 1997)*

In a 1997 decision, the Minnesota Supreme Court upheld the decision of the Minnesota Court of Appeals where a licensee was found responsible for an illegal sale when he did not reasonably control his licensed premises. In this case, an on-sale establishment served its beverages in plastic cups and did not take action to ensure customers consumed their drinks before leaving. A patron bought drinks, carried them off the premises, and consumed them in her car. Subsequently, she was involved in an auto accident. The courts held this was an illegal sale because the retailer did not reasonably act to ensure liquor was consumed on the premises.

C. Police moonlighting

Liability issues can arise when a city police officer moonlights as a bouncer for a bar. A city may be held liable for actions that an off-duty police officer takes while moonlighting as a bouncer.

Sometimes police officers seek outside employment to supplement their incomes. However, there is the potential for some liability exposure. This can occur under a variety of circumstances. For example, if the individual needs to respond as a police officer because a crime is being committed, he or she may be working as a city police officer instead of as an employee of the establishment. Likewise if the individual is wearing a city police officer's uniform or using city equipment, such as his or her weapon, the city can sometimes be held responsible for the actions of the officer because the impression exists that the officer is on-duty.

Many cities adopt guidelines for outside employment to make it clear to customers that the officer is not "on-duty." These guidelines may include not using city equipment or wearing city uniforms while performing outside work. Some cities have required the establishments to contract with the city for an officer so that the city can create policies and retain some control over the individual's actions. Contact the League for additional information on police moonlighting.

D. Alcohol on city property and at city functions

Whenever an event is held on city property, a city faces the potential for liability exposure. This risk is increased when liquor sales are involved. There are three possible scenarios:

- A liquor license is issued to an organization for an event that is to be held on city property. An example of this would be renting out the community center for wedding receptions or issuing licenses for events in the city park.
- The city is running an event at which liquor will be served by another organization. An example of this would be a city-sponsored festival where someone wants a license to set up a beer garden.
- The city owns and operates a municipal liquor store.

Contact the [League Research and Information Service](#) at (800) 925-1122 or 651-281-1200.

Cities will need to get their own insurance policies for municipal liquor store operation. For the other situations, cities should have a written agreement that requires the following before a license is granted:

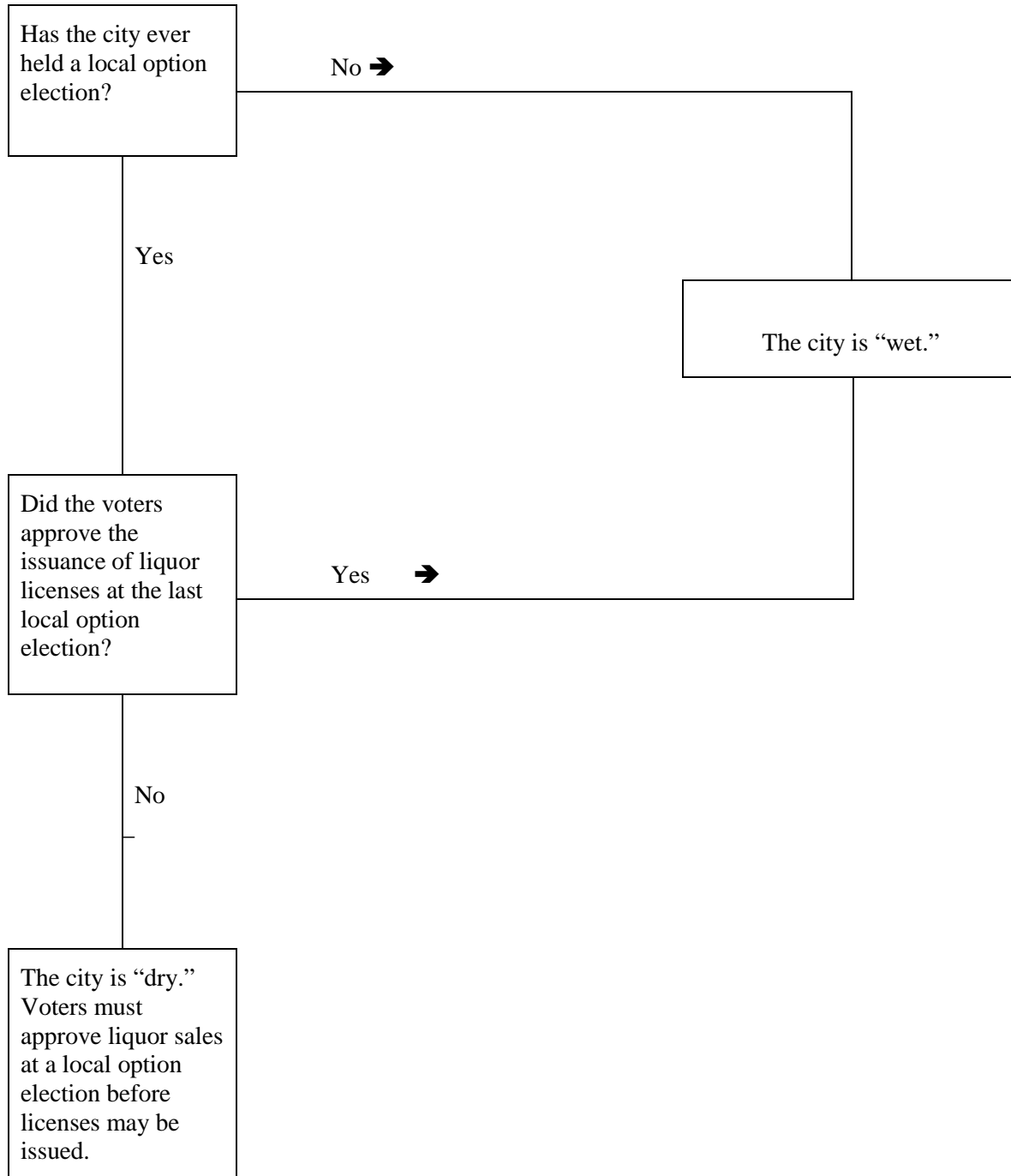
- Proof of insurance.
- That the city is named as an additional insured on the policy.
- That the licensee agrees to defend and indemnify the city for any claims that arise as a result of the event.
- That the licensee agrees to hold the city harmless.

See Part XI - A - *Insurance*

Cities often ask how much insurance should be required when liquor sales will be made on city property. While the statutes give some guidelines, they indicate only the minimum amount of insurance required. Cities may require amounts higher than the minimum amounts in the statutes, and should consider doing this since cities have no tort liability limits for dram shop actions. Cities should consult with their insurance agents to determine the best amount of insurance coverage to require for the different types of events. These amounts should be reviewed regularly.

Appendix A. “Wet” or “Dry”?

This flowchart can be used to determine whether a city is “wet” (may allow intoxicating liquor sales) or “dry” (may not allow intoxicating liquor sales). See **Part II - A - Local option** for a further discussion of local option elections.



Appendix B. Sample Ballot Questions

1. Local option

Shall the city council be allowed to issue licenses for the sale of intoxicating liquor at retail?

For license _____ Against license _____

2. Sunday Liquor

Shall the city council be allowed to issue on-sale licenses to restaurants, clubs, bowling centers, and hotels for the sale of intoxicating liquor at retail on Sundays?

Yes _____ No _____

3. Split Liquor

The city currently owns and operates a municipal liquor store. Shall the city council be allowed to issue private on-sale licenses to hotels, clubs, and restaurants for the sale of intoxicating liquor?

Yes _____ No _____

4. Increasing maximum number of licenses

Note: There are two ways a city may word this question. The first (see A) generally allows the city to exceed the statutory number of licenses. The second (see B) allows the city to exceed the statutory number of licenses by a specific number of licenses.

a. Question to generally exceed the statutory number of licenses.

Shall the city council be allowed to issue on-sale licenses for the sale of intoxicating liquor at retail in excess of the number permitted by law?

Yes _____ No _____

b. Question to exceed the statutory number of licenses by a specific number.

Shall the city council be allowed to issue (*insert specific number here*) on-sale licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?

Yes _____ No _____

Appendix C. Who issues and who approves?

License/permit type	Issued by	Approved by	Statute
Off-sale intoxicating liquor license	City	Commissioner of Public Safety	Minn. Stat. § 340A.405, subd. 1
On-sale intoxicating liquor license (except for clubs)	City	*(Cities in St. Louis County--see note below)	Minn. Stat. § 340A.404, subd. 1
Club on-sale intoxicating liquor license	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 1 (4)
Sunday on-sale intoxicating liquor license (must get voters to authorize sales on Sunday)	City		Minn. Stat. § 340A.504, subd. 3 (c)
Combination on-sale/off-sale intoxicating liquor license	City	Commissioner approves off-sale	Minn. Stat. § 340A.406
Temporary on-sale intoxicating liquor license	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 10
Wine on-sale	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 5 (c)
Temporary off-sale wine license (for wine auctions)	City	Commissioner of Public Safety	Minn. Stat. § 340A.405, subd. 4
Culinary class limited on-sale wine and malt liquor	City		Minn. Stat. § 340A.4041
Farm winery	Commissioner of Public Safety		Minn. Stat. § 340A.315
Bed-and-breakfast wine license	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 5 (c)
Bed-and-breakfast wine license exemption	Must register with Commissioner of Public Safety		Minn. Stat. § 340A.4011, subd. 2
3.2-percent malt liquor (beer) - both year long and temporary licenses	City		Minn. Stat. § 340A.403, subd. 1
Strong beer (over 3.2 percent)	City	(Authorization to Commissioner)	Minn. Stat. § 340A.404, subd. 5 (b)
On-sale brew pub license	City	Commissioner of Public Safety	Minn. Stat. § 340A.301, subd. 7
Off-sale brew pub or micro-brewer's license	City	Commissioner of Public Safety	Minn. Stat. § 340A.301, subd 7
Temporary on-sale intoxicating liquor license for micro-brewers	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd 10(c)
Consumption-and-display (set-ups) permit	Commissioner of Public Safety	City	Minn. Stat. § 340A.414, subd. 2 and 5

One day consumption-and-display permit	City	Commissioner of Public Safety	Minn. Stat. § 340A.414, subd. 9
Caterer's permit	Commissioner of Public Safety		Minn. Stat. § 340A.404, subd. 12

***NOTE:** Although not specifically found in the statutes or rules, the Department of Public Safety's Alcohol and Gambling Enforcement Division has indicated that they grant approval of on-sale intoxicating liquor licenses for third class cities in St. Louis County under Minn. Stat. § 340A.413, subd. 2. This would include the following cities: Aurora, Biwabik, Chisholm, Ely, Eveleth, Gilbert, and Virginia. These cities should contact the Department of Public Safety at (651) 215-6209 with any questions they have regarding this interpretation.

Appendix D. Number of licenses

Type of license	Maximum number of licenses	Statute
Off-sale intoxicating liquor licenses	<p>The maximum number of licenses varies depending upon the size and location of the city:</p> <ul style="list-style-type: none"> ◆ First-class cities--not more than one license for each 5,000 of population. ◆ All other cities--set by city. 	Minn. Stat. § 340A.413, subd. 5
On-sale intoxicating liquor licenses	<p>The maximum number of licenses varies depending upon the size and location of the city:</p> <ul style="list-style-type: none"> ◆ First-class cities (home rule charter or statutory)--one license for every 1,500 of population up to 200 licenses. ◆ Second-class cities (home rule charter or statutory)--not more than 18 licenses plus one for every 2,500 population over 45,000 (second class cities). ◆ Third-class cities (home rule charter or statutory)--up to 12 licenses. ◆ Fourth-class cities (home rule charter or statutory)--not more than 7 licenses. ◆ Statutory cities of 5,000-10,000--not more than 6 licenses. ◆ Statutory cities of 2,500-5,000--not more than 5 licenses. ◆ Statutory cities of 500-2,500--not more than four licenses. ◆ Statutory cities under 500--not more than 3 licenses. <p>(Certain on-sale licenses issued to restaurants, theaters, hotels and bowling centers do not count towards the total limit of licenses for the City).</p>	<p>Minn. Stat. § 340A.413, Subd. 1</p> <p>(Note: The statutes are unclear as to whether the general limit for fourth class cities or the more specific amounts for statutory cities will apply to statutory cities. Cities should consult with their city attorney when approaching these limits.)</p>
On-sale intoxicating (only cities in St. Louis County)	<p>Third-class cities--15 licenses. Fourth-class cities--9 licenses. Statutory cities of 2,500-6,000--6 licenses.</p>	Minn. Stat. § 340A.413, subd. 2
On-sale club intoxicating liquor licenses	Statute does not provide limit. Total licenses set by city. These licenses are not counted for purpose of determining the number of on-sale intoxicating licenses.	Minn. Stat. § 340A.413, subd. 4
Combination on-sale/off-sale intoxicating liquor licenses	Statute does not provide limit. Total licenses set by city.	Minn. Stat. § 340A.413, subd. 4
Split-liquor private on-sale intoxicating liquor licenses*	See under "on-sale intoxicating"	Minn. Stat. § 340A.601, subd. 5 and Minn. Stat. § 340A.413
Wine licenses	Statute does not provide limit. Total licenses set by city. These licenses are not counted for purpose of determining the number of on-sale intoxicating licenses.	Minn. Stat. § 340A.413, subd. 4 (3)
Sunday on-sale intoxicating liquor licenses	Statute does not provide limit. Total licenses set by city.	Minn. Stat. § 340.504 subd. 3
On-sale 3.2 percent malt liquor	Statute does not provide limit. Total licenses set by city.	Minn. Stat. § 340A.403,

Type of license	Maximum number of licenses	Statute
(beer)		subd. 1
Off-sale 3.2 percent malt liquor (beer)	Statute does not provide limit. Total licenses set by city.	Minn. Stat. § 340A.403, subd. 1
Temporary on-sale intoxicating liquor licenses	Not more than 12 days worth of temporary licenses per year, per organization or location.	Minn. Stat. § 340A.410, subd. 10
Consumption-and-display permits	Issued by Commissioner. Statute does not provide limit.	Minn. Stat. § 340.414
Temporary consumption and display permits (set-ups).	Not more than 10 one-day permits per year per organization.	Minn. Stat. § 340A.414, subd. 9

***NOTE:** There is an apparent conflict between state statute and the Department of Public Safety’s rule regarding the number of private on-sale licenses that may be issued in a split liquor city (see Minn. R. § 7515.0420, D, which sets different limits—6 licenses in cities over 10,000; 4 in cities 5,000-10,000; and 3 in cities under 5,000, and Minn. Stat. § 340A.413). This same rule also requires cities to discontinue their municipal liquor stores if the maximum number of licenses are issued. This also appears to conflict with the language in the statute, which allows cities to issue private licenses and continue their municipal liquor store operations (see Minn. Stat. § 340A.601, subd. 5). The above table indicates the number of licenses that the statutes permit, since it is assumed that the statute will supersede any inconsistent provisions in the rules. However, cities should seek the advice of their city attorneys with questions concerning whether to follow the statutory provisions or the state rule.

Appendix E. License fees

Cities generally have discretion when setting license fee amounts. Such fees must be reasonable, however. The following table outlines the limits on liquor license fees established by the statutes. Note that in addition to these license fees, a city may charge an applicant a fee for doing the applicant's background investigation. This fee can be up to \$500 for investigations done within the state or the actual cost of doing the investigation (but not more than \$10,000) if it's done outside of the state.

Type of license	Maximum fee amount	Statute
Annual off-sale intoxicating	<p>Set by city. Amount varies depending upon size of city. Fee for license cannot exceed the following when combined with any occupation tax imposed by city:</p> <ul style="list-style-type: none"> ◆ First class cities--\$1,500. ◆ Cities over 10,000 population located outside of the seven-county metro area other than cities of the first class -- \$560 ◆ Cities over 10,000 that are not first class cities or cities over 10,000 population outside of the seven-county metro area other than cities of the first class--\$380. ◆ Cities between 5,000 and 10,000--\$310. ◆ Cities with less than 5,000--\$240. <p>This fee is subject to a mandatory \$100 reduction if the licensee adopts programs specified in the state statute to reduce under-age drinking.</p>	Minn. Stat. § 340A.408, subd. 3
Annual on-sale intoxicating (other than club license)	Set by the city. Statute does not specify amount. But fee is intended to cover costs of issuing and inspecting and other directly related costs of inspection.	Minn. Stat. § 340A.408, subd. 2
Annual on-sale club license	<p>Set by city. Amount varies depending upon number of members in club:</p> <ul style="list-style-type: none"> ◆ Under 200 members--\$300. ◆ 201-500 members--\$500. ◆ 501-1,000 members--\$650. ◆ 1,001-2,000 members--\$800. ◆ 2,001-4,000 members--\$1,000. ◆ 4,001-6,000 members--\$2,000. ◆ Over 6,000 members--\$3,000. 	Minn. Stat. § 340A.408, subd. 2 (b)
Annual Sunday on-sale intoxicating	Set by city. Can't exceed \$200.	Minn. Stat. § 340A.504, subd. 3
Annual combination on-sale/off-sale	Set by city. Statutes do not specify amount. But consider limits for individual on-sale and off-sale.	Minn. Stat. § 340A.406
Temporary on-sale intoxicating	Set by city.	Minn. Stat. § 340A.404, subd. 10
Annual on-sale wine license	Half of fee for on-sale liquor license or \$2,000, whichever is less.	Minn. Stat. § 340A.408, subd. 2 (c)

Type of license	Maximum fee amount	Statute
Culinary class limited on-sale wine and malt liquor	Set by the city. Statute does not specify amount. But fee is intended to cover costs of issuing and inspecting and other directly related costs of inspection.	Minn. Stat. § 340A.401
Temporary off-sale wine license	Set by city. Statutes do not set a limit.	Minn. Stat. § 340A.405, subd. 4
Annual 3.2 beer license (on-sale or off-sale)	Set by city. Statutes do not set a limit. But consider limits of intoxicating licenses.	Minn. Stat. § 340A.403
Temporary 3.2 beer license	Set by city. Statutes do not set a limit.	Minn. Stat. § 340A.403
On-sale brew pub license	Set by city. Statutes do not specify amount. But consider limits for general on-sale intoxicating liquor or 3.2 license.	Minn. Stat. § 340A.301, subd. 7
Off-sale brew pub or micro-brewer's license	Set by city. Statutes do not specify amount. But consider limits for individual off-sale license. Statute is unclear whether the limits for off-sale apply to this license as well.	Minn. Stat. § 340A.301 subd 7
Temporary on-sale intoxicating liquor license for micro-brewers	Set by city.	Minn. Stat. § 340A.404 subd 10(c)
One day consumption and display permit	Set by city. Can't exceed \$25.	Minn. Stat. § 340A.414, subd. 9
Consumption and display permit	State fee is \$250. City may impose up to \$300 additional fee.	Minn. Stat. § 340A.414, subd. 6
Strong beer (NOTE: This is not a separate license.)	See wine, 3.2 beer and intoxicating on-sale licenses for possible limits, depending upon licenses that allow sale of strong beer.	Minn. Stat. § 340A.404, subd. 5 (b)
Caterers permit	State fee is \$300.	Minn. Stat. § 340A.404, subd. 12 (g)
Common carriers	State fee is: <ul style="list-style-type: none"> • 3.2 beer--\$50 • Intoxicating--\$250 • Tour boats (intoxicating)--\$1,500 (Note: Half of tour boat intoxicating license fee will be forwarded to city that is home port of tour boat)	Minn. Stat. § 340A.408, subd. 4
Farm Winery	State fee is \$50.00	Minn. Stat. § 340A.315

Appendix F. League of Minnesota Cities Sample Ordinance Regulating the Possession, Sale and Consumption of Intoxicating and 3.2 percent Malt Liquor in Cities.

(REVISED VERSION July 2010) Drafted by LMC Special Counsel Duke Addicks

Users Note:

This model liquor licensing ordinance is very comprehensive, and covers the issuance of all of the types of licenses a city may issue. A city wishing to adopt this ordinance should review it to make sure that it wishes to adopt all of its provisions. A city can modify the ordinance to eliminate those types of licenses that it does not wish to issue.

Because most of the provisions of this ordinance are controlled by statute, any modifications should be approved by the city attorney to make sure the changes conform to state law. The city's attorney should review the entire ordinance before it is adopted as this ordinance establishes the rights and responsibilities of both the city and the license applicants and holders. The form of this model ordinance is that used by Statutory Cities as required by Minnesota Statutes § 412.191, subd. 4.

A home rule charter often contains provisions concerning how the city may enact ordinances. Home rule charter cities should consult their charter and city attorney before adopting this ordinance in order to ensure that charter provisions are complied with.

Statutory cities may publish a summary of lengthy ordinances instead of the complete ordinance, as provided by Minnesota Statutes § 412, subd. 4, but the summary must meet the requirements of Minnesota Statutes §331A.01, subd. 10. In order to fully inform the public of the nature of any conduct that is prohibited, portions of the summary set out the provisions of the ordinance in greater detail than those dealing with the liquor licensing process. A suggested summary of this ordinance with instructions for its adoption and publication follows the model ordinance.

Because this ordinance will affect existing liquor licensees, a copy of the proposed ordinance should be mailed to each licensee along with a notice of the hearing on the ordinance in order to try to make them aware of the contents of the proposed ordinance and to give them an opportunity to make their views known.

Cities which do not have a municipal liquor store should not adopt those sections of this model ordinance dealing with municipal liquor stores.

Because of internal cross references, Sections 30, 31 and 32 should retain their numbering in the adopted ordinance even if Sections 24 to 29 dealing with municipal liquor stores are deleted. If Sections 24 to 29 are not adopted, the ordinance should contain a provision to read: "Sections 24 to 29 are reserved for future use." This is so that the reader of the ordinance will not be confused by the absence of these sections.

ORDINANCE NO. _____
AN ORDINANCE REGULATING
THE POSSESSION, SALE AND CONSUMPTION
OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR
WITHIN THE CITY OF _____, MINNESOTA

THE CITY COUNCIL OF THE CITY OF _____, MINNESOTA DOES ORDAIN:

SECTION 1. ADOPTION OF STATE LAW BY REFERENCE.

The provisions of M.S. Ch. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to 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 this Ordinance as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. § 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Ordinance is adopted.

SECTION 2. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW.

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

SECTION 3. DEFINITIONS.

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

LIQUOR. As used in this ordinance, without modification by the words An “intoxicating” or a “3.2 percent malt” includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this ordinance unless it meets the definitions of a “small establishment”, “medium establishment” or “large establishment”.

SECTION 4. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.

(A) 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 this ordinance. 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 this ordinance, as set forth in this section, reflects the prevailing community standards of the city.

(B) 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) 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 ordinance or the imposition of a civil penalty under the provisions of Section 30(B).

SECTION 5. CONSUMPTION IN PUBLIC PLACES.

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

SECTION 6. RAFFLES, SILENT AUCTIONS AND FUND RAISING EVENTS FOR CHARITABLE PURPOSES OF WINE, BEER OR INTOXICATING LIQUORS

No person shall conduct a silent auction, raffle of 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.

SECTION 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 ordinance is limited to the number of license which were issued as of the effective date of this ordinance, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. § 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

SECTION 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 ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

SECTION 9. KINDS OF LIQUOR LICENSES.

The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in Section 7. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in Section 29.

(A) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2 percent malt liquor off-sale license.

(C) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section 10 shall not exceed \$240 or a greater amount which may be permitted by M.S. § 340A.408, subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this ordinance: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 10 of this ordinance shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 10 of this ordinance, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, subd. 3c, as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than 10,000.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. §340A.404, subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in section 3; to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 10 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. 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.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 10 of this ordinance shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.14, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 10.

(N) Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 9 (O) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(O) Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 9 (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at M.S. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.301 subd. 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 9 (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(P) Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

SECTION 10. LICENSE FEES; PRO RATA.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges 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 ordinance. 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 M.S. § 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 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 23 of this ordinance.

SECTION 11. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE.

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

SECTION 12. APPLICATION FOR LICENSE.

(A) *Form.* Every application for a license issued under this ordinance shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

(B) *Financial responsibility.* Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 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. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this ordinance without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

SECTION 13. DESCRIPTION OF PREMISES.

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

SECTION 14. APPLICATIONS FOR RENEWAL.

At least 90 days before a license issued under this ordinance is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

SECTION 15. TRANSFER OF LICENSE.

No license issued under this ordinance may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee 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 license shall apply.

SECTION 16. INVESTIGATION.

(A) *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 or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. 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.

(B) *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, 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.

SECTION 17. HEARING AND ISSUANCE.

The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, 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.

SECTION 18. RESTRICTIONS 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) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(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 division (E) shall not apply to any license existing on the effective date of this ordinance or to the renewal of an existing license.

(F) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

SECTION 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.

(A) 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.

(B) 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 ordinance and the law equally with the employee.

(C) 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.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

(F) Failure by on off-sale intoxicating liquor license who has received a fee reduction pursuant to section 10 (f) of this ordinance to abide with the provisions of section 10 (f).

SECTION 20. HOURS AND DAYS OF SALE.

(A) The hours of operation and days of sale shall be those set by M.S. § 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 premises 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.

SECTION 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.

SECTION 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 M.S. § 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.

SECTION 23. SUSPENSION AND REVOCATION.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this ordinance relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

(B) The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this ordinance or M.S. 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:

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of Section 4, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this ordinance for at least the minimum periods as follows:

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

(3) The Council shall select the day or days during which the license will be suspended.

(C) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance 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 division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this ordinance have again been met.

(D) The provisions of Section 30 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

SECTION 24. APPLICATION OF SECTIONS 25-29.

Sections 25 to 29 apply only to a city that has in existence on the effective date of this ordinance a municipal liquor store.

SECTION 25. EXISTING MUNICIPAL STORES CONTINUED.

If the city has in existence on the effective date of this ordinance a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in Section 29, no intoxicating liquor may be sold at retail elsewhere in the city.

SECTION 26. LOCATION.

The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.

SECTION 27. OPERATION.

(A) *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this ordinance from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this ordinance and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.

(B) *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

(C) *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

(D) *Financial statement.* The Council shall provide within 90 days following the end of the calendar year for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement shall be published in accordance with the provisions of M.S. § 471.6985, as it may be amended from time to time.

(E) *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as provided in Section 20. No person, other than the Manager or a store employee, may remain in the

municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease.

SECTION 28. PROOF OF FINANCIAL RESPONSIBILITY.

The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. § 340A.409, as it may be amended from time to time.

SECTION 29. ISSUANCE OF OTHER LICENSES.

(A) *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. § 340A.404, subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue in its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this section is governed by M.S. § 340A.413, as it may be amended from time to time, as limited by the provisions of this ordinance. The issuance of these licenses is governed by the provisions of this ordinance.

(B) *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

(C) *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt liquor licenses in its sound discretion as provided in this ordinance.

SECTION 30. PENALTIES.

(A) Any person violating the provisions of this ordinance or M.S. 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 Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this ordinance. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- (1) For the first violation within any three-year period, \$500.
- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

(C) The term “violation” as used in Section 23 includes any and all violations of the provisions in this section, or of M.S. 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 three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

SECTION 31. EFFECTIVE DATE

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by M.S. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of M.S. § 331A.01, subd. 10, as it may be amended from time to time.

SECTION 32. SUMMARY APPROVED

The Council hereby determines that the text of the summary of this ordinance marked “Official Summary of Ordinance No. _____,” and a copy of which is attached to this ordinance, clearly informs the public

of the intent and effect of this ordinance. The Council further determines that publication of the title and this summary will clearly inform the public of the intent and the effect of this ordinance. The Clerk shall file a copy of this ordinance and the summary in the Clerk's office which shall be available for inspection by any person during regular office hours. A copy of the ordinance shall be available in the community library, if there is one, or if not, in any other public location which the council designates.

Passed by the Council this _____, day of _____, _____.

Mayor

Attested: _____

PUBLICATION OF A SUMMARY OF AN ORDINANCE REGULATING THE POSSESSION, SALE AND CONSUMPTION OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR WITHIN MINNESOTA CITIES.

Cities wishing to publish a summary of this ordinance instead of publishing the entire ordinance should be familiar with the following information.

Introduction and Instructions:

Statutory cities may publish a summary of lengthy ordinances instead of the complete ordinance, as provided by Minnesota Statutes § 412.191, subd. 4, but the summary must meet the requirements of Minnesota Statutes § 331A.01, subd. 10.

Before drafting, adopting and publishing a summary of an ordinance, the city should review the statutory provisions reproduced below:

Minnesota Statutes § 412.191, Subdivision 4, provides in part as follows:

"In the case of lengthy ordinances, or ordinances which include charts or maps, if the city council determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the council may by a **four-fifths vote of its members** direct that only the title of the ordinance and a summary be published, conforming to [M.S. § 331A.01, subdivision 10](#), with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the city clerk and any other location which the council designates. A copy of the entire text of the ordinance shall be posted in the community library, if there is one, or if not, in any other public location which the council designates. Prior to the publication of the title and summary the council shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. The publishing of the title and summary shall be deemed to fulfill all legal publication requirements as completely as if the entire ordinance had been published. The text of the summary shall be published in a body type no smaller than brevier or eight-point type. Proof of the publication shall be attached to and filed with the ordinance." (*emphasis added*)

Minnesota Statutes § 331A.01, subd. 10 reads in part:

"Summary" means an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, and other official actions. It shall be written in a clear and coherent manner, and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public (*emphasis added*). When a summary is published, the publication shall clearly indicate that the published material is only a summary and that the full text is available for public inspection at a designated location. A summary published in conformity with this section shall be deemed to fulfill all legal publication requirements as completely as if the entire matter which was summarized had been published. No liability shall be asserted against the local public corporation in connection with the publication of a summary or agenda."

The following is a suggested summary of this ordinance. The summary of the ordinance adopted by the city should be reviewed by the city attorney before it is adopted by the council.

In order to fully inform the public of the nature of any conduct that is prohibited, portions of the summary set out the provisions of the ordinance in greater detail than those dealing with the liquor licensing process.

OFFICIAL SUMMARY OF ORDINANCE NO. _____,
AN ORDINANCE REGULATING
THE POSSESSION, SALE AND CONSUMPTION
OF INTOXICATING AND 3.2 PERCENT MALT LIQUOR
WITHIN THE CITY OF _____, MINNESOTA

The following is the official summary of Ordinance No.____, which was passed by the city Council on _____.

A printed copy of this ordinance is available for inspection by any person at the office of the city clerk during normal business hours, and at the community library, if there is one, or if not, in any other public location which the council designates.

The ordinance regulating the possession, sale and consumption of intoxicating and 3.2 percent malt liquor within this city contains the following provisions.

Section 1 adopts Minnesota Statutes Chapter 340A, as it may be amended from time to time, by reference.

Section 2 permits the city to be more restrictive than state law concerning the sale and possession of alcoholic beverages.

Section 3 defines "liquor" and "restaurant" as those terms are used in the ordinance.

Section 4 makes 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. 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 the imposition of a civil penalty under the provisions of Section 29(B) of this ordinance.

Section 5 provides that no person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Section 6 requires persons holding a raffle, silent auction or fundraising event where wine, beer or intoxicating liquor is awarded as a prize to register with the city ten days prior to conducting the event.

Section 7 limits the number of license which may be issued.

Section 8 establishes the term and expiration dates for licenses.

Section 9 establishes the kinds of licenses which may be issued

Comment: *Here the city should list the specific licenses authorized by the ordinance.*

Section 10 authorizes the establishment of license fees by ordinance or resolution.

Section 11 permits the Council, in its sound discretion, to grant or deny applications for licenses, or for the transfer or renewal of any license.

Section 12 describes the information required in an application for a license.

Section 13 requires a specific description of the premises to be licensed.

Section 14 provides that applications for renewal of licenses must be filed at least 90 days before the date of expiration, and permits the council in its sound discretion to renew or not renew a license.

Section 15 prohibits the transfer of a license without Council approval.

Section 16 requires background and financial investigations of applicants for a license, renewal of a license or transfer of a license.

Section 17 provides for a hearing on the issuance of a license.

Section 18 establishes restrictions on the issuance of a license.

Section 19 establishes the conditions of a liquor license that a licensee must follow to avoid suspension or revocation. 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.

- 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 of the servers shall be provided by the licensee.
- 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 ordinance and the law equally with the employee.
- 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.
- No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.
- Compliance with the provisions an off-sale intoxicating liquor license fee reduction pursuant to Minn. Stat. § 340A.408, subd 3 (c).

Section 20 establishes the hours and days of sale which are consistent with those established by state law. In addition, the ordinance provides that:

- 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 premises more than 30 minutes after the time when a sale can legally occur.
- 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.
- 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.

Section 21 prohibits minors and underage persons on licensed premises except under certain conditions:

- 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 or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
- 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.

Section 22 prohibits persons from mixing or preparing liquor for consumption in any public place of business unless it has a license or permit.

Section 23 establishes the circumstances and procedures for suspension and revocation of a license. The Council is required to either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this ordinance relating to liquor. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance 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. A schedule of minimum periods of suspension and for revocation is established.

Section 24 provides that Sections 25 to 29 apply to cities with municipal liquor stores. [Note: Cities that do not have a municipal liquor store should delete these sections before adopting this ordinance, but not renumber Sections 24 to 29. Instead a notation should be included in the summary of the ordinance indicating that "Sections 24 to 29 are reserved for future use." This is so that the reader of the ordinance will not be confused by the absence of these sections].

Section 25 provides for the continuance of municipal liquor stores.

Section 26 provides for the location of municipal liquor stores.

Section 27 provides for the operation of municipal liquor stores.

Section 28 provides for proof of financial responsibility of municipal liquor stores.

Section 29 provides for the issuance of other licenses by cities with municipal liquor stores.

Section 30 provides for penalties for violating this ordinance, including a schedule of civil penalties.

Section 31 establishes the effective date of the ordinance which is the date of the publication of this summary of the ordinance.

Section 32 approves this summary of the ordinance.

This summary was approved by the City Council of _____, Minnesota, on _____, _____.

Mayor

Attest: _____
City Clerk