



## INFORMATION MEMO

# Liquor Licensing and Regulation

*This memo explains the types of liquor licenses and what each allows, as well as criteria that applicants and their establishments must meet for the various types of licenses. It outlines liquor licensing procedure, state and local regulations imposed on liquor license holders, and insurance and liability concerns. It also discusses liquor election questions. Included charts summarize fees and license numbers, as well as who issues and approves licenses. A model ordinance is included.*

### RELEVANT LINKS:

[Minn. Stat. ch. 340A.](#)  
See Part II - A. *Local option election.*  
[Minn. Stat. § 340A.509.](#)

[Minn. R. 7515.](#)

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

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.](#)

See Part II - A. *Local option election.*

[Minn. Stat. § 340A.401.](#)

## I. State law and liquor sales

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 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 Minn. R. 7515.

The Alcohol and Gambling Enforcement Division of the Department of Public Safety (“AGED” or “the state”) 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 website.

State law also provides for sale of liquor in municipal liquor stores. This memo only briefly addresses this topic. Contact the League’s Research and Information Service or the Minnesota Municipal Beverage Association (MMBA) for additional information on municipal liquor stores.

## A. Liquor licensing in general

Cities license and regulate retail liquor sales by 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. Unless allowed by a specific law, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without the required license or permit.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

## RELEVANT LINKS:

[Minn. R. 7515.0400.](#)  
See Appendix A and  
Appendix C.

See Part II - A. *Local option  
election.*

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

[Minn. Stat. § 340A.101,  
subd. 20. Minn. Stat. §  
340A.405, subd. 1.](#)  
See Parts III through VII.

[Minn. Stat. § 340A.101,  
subd. 21.](#)  
See Part III - *Intoxicating  
liquor licenses.*

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 AGED. This document includes a table that shows the licenses issued by cities and those issued by AGED, and whether approval is necessary.

Neither AGED 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.

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.
- Microdistilleries.
- Situations where no license is required.
- 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:

## RELEVANT LINKS:

See Part III - C - *Special authorizations*.

See Part IV - *Wine licenses*.

See Part V 3.2 *Percent malt liquor (beer), strong beer, and brew pub licenses*.

See Part VI *Microdistilleries*.

See Part II-C *Split liquor elections*.  
*Stabs v. City of Tower*, 229 Minn. 552, 40 N.W.2d 362 (1949).

See Part IV -E-1- *Certain bed & breakfasts*.

- On-sale intoxicating liquor license.
- On-sale Sunday intoxicating liquor license.
- Temporary on-sale intoxicating liquor license.
- On-sale club license.

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 community festivals, and sports or cultural facilities.

## D. Wine licenses

On-sale wine licenses allow the on-sale of wine and wine-based products up to 14 percent alcohol by volume. There are also wine licenses for special circumstances such as culinary classes, farm wineries, wine festivals, and county fairs. With few exceptions, wine isn't sold off-sale without an off-sale intoxicating liquor license.

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

These licenses authorize on- and off-sale of beer and other beverages produced from malted barley. They include the following:

- Off-sale 3.2 percent malt liquor license.
- On-sale 3.2 percent malt liquor license.
- Temporary on-sale 3.2 percent malt liquor license.
- On-sale malt liquor license.
- Brewers or brew pub on-sale, off-sale, and temporary licenses.

## F. Microdistilleries

Microdistilleries are licensed by the state, but cities can issue them an on-sale license or off-sale license for products made on premises, as well as a temporary on-sale license.

## G. No license required

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

- Municipal liquor stores. These establishments are municipally owned and operated. A license is not required, but a city must be "wet" in order to open a municipal liquor store.
- Bed and breakfasts. A bed and breakfast that meets certain narrow criteria is exempt from the on-sale license requirements when serving wine or Minnesota-produced beer to guests.

## RELEVANT LINKS:

[Minn. Stat. § 340A.301, subd. 11.](#)

[Minn. Stat. § 340A.34.](#)  
See Part IV – E – 4 *Wine on premises stores* and Part V – C – 5 *Brew-on-premises stores exemption*.

[Minn. Stat. § 340A.707.](#)

See LMC information memo, [Lawful Gambling](#).

See [Liquor Licensing](#), LMC Model Ordinance.

See Part VII-A – *Consumption-and-display ('set-up') permits*.

See Part VII-B – *Temporary consumption-and-display permits*.

See Part VIII-C – *Caterer's permit*.

See Part III-C-3 *2am On-sale intoxicating liquor permit*.

- Home brewers. A person may make wine and beer in his or her own home for family consumption and use as well as for taking part in a “home-brew” exposition 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. Notice language can be found in the LMC Model Ordinance.

## H. Liquor permits

The state issues a few kinds of liquor permits:

- Consumption-and-display (often called “set-ups”) permit. Not an actual liquor license, a consumption-and-display permit issued by the state allows the permit holder to sell liquid to mix in intoxicating liquor brought to the premises and consumed by patrons.
- Temporary one-day consumption-and-display permit. This permit is issued by the city and allows certain organizations a consumption-and-display permit for specific kinds of events of limited 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.
- Optional 2 a.m. permit. If a city has by ordinance allowed for it, an establishment in the city may obtain a permit from the state that allows on-sale of intoxicating liquor to continue until 2 a.m. instead of the 1 a.m. statutory default closing time.

## RELEVANT LINKS:

[Minn. Stat. § 340A.416.](#)  
See Appendix A. “Wet” or “Dry”?

[A.G. Ops. 218c-1 \(July 19, 1965\).](#) [A.G. Ops. 218g-13 \(July 28, 1965\).](#) [A.G. Ops. 218c-1 \(July 19, 1965\).](#) [A.G. Ops. 218c-3 \(July 20, 1965\).](#) [A.G. Ops. 218c-3 \(July 21, 1965\).](#)  
See Appendix A. “Wet” or “Dry”?

[Minn. Stat. § 340A.416, subd. 1.](#)

[Minn. Stat. § 205.10, subd. 1.](#)  
See also LMC information memo [City Special Elections](#).

## II. Liquor elections

City councils must get the approval of the voters before issuing certain types of liquor licenses, including intoxicating liquor licenses. This section discusses the four different kinds of liquor elections and their procedure. The different liquor elections include the following:

- Local option.
- Sunday liquor.
- Split liquor.
- Increasing the maximum number of licenses.

### A. Local-option election

Cities where the voters have approved the issuance of liquor licenses are called “wet.” Cities where the voters have either refused to approve or revoked approval for 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.”

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 is 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.

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.

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.

## RELEVANT LINKS:

[Minn. Stat. § 340A.416, subd. 2.](#) See Appendix B. *Sample ballot questions.*

[Minn. Stat. § 340A.416, subd. 3.](#)

[Minn. Stat. § 340A.416, subd. 4.](#)

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

[Minn. Stat. § 340A.504, subd. 3.](#)  
See Part III -C-2 *Sunday intoxicating liquor licenses.*  
[Minn. Stat. § 340A.404, subd. 10.](#)

See Appendix B. *Sample ballot questions—1. Local option.*

[Minn. Stat. § 340A.504, subd. 3 \(b\).](#)

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

Depending upon whether a referendum is called to make the city wet or dry, the referendum question must be either “Shall the city issue ... intoxicating liquor licenses?” or “Shall the city discontinue issuing intoxicating liquor licenses?”. A sample ballot is included in this memo.

In the case of a referendum to turn a city dry, the city may not issue intoxicating liquor licenses if a majority of the people voting on the question vote to discontinue issuing licenses. However, the council may issue licenses if another election is held on the question at a later date, and the voters approve issuing licenses.

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.

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

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 AGED, temporary on-sale licenses may be issued for Sundays even if the city does not allow Sunday sales.

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.

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.

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 allow issuance of Sunday intoxicating liquor licenses.

## RELEVANT LINKS:

See Part III-C-2 *Sunday intoxicating liquor licenses*.

*Stabs v. City of Tower*, 229 Minn. 552, 40 N.W.2d 362 (1949).

Minn. Stat. § 340A.601, subd. 5.

Minn. Stat. § 340A.601, subd. 5. Minn. Stat. § 340A.404, subd. 1(4).

See Part III-B-4 “*Split liquor*.”

Minn. Stat. § 340A.601, subd. 5. Minn. Stat. § 340A.404, subd. 10.

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

Minn. Stat. § 340A.413, subd. 3.

The statutes are unclear as to whether a Sunday election is needed to allow a municipal liquor store to sell liquor on a Sunday. A municipal liquor store is not a “licensee,” and has the same authority whether Sunday licenses are authorized by voters or not. 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

Cities with populations of 10,000 or less may establish, own, and operate municipal liquor stores. The store may be on-sale, off-sale, or an on-sale and off-sale establishment. Often, a municipal liquor store will be the only liquor business in the city.

However, a city with a municipal liquor store can also license private on-sale liquor establishments if authorized by citywide election.

A city that issues private on-sale liquor licenses while maintaining a municipal liquor store is said to have “split liquor.” Like Sunday liquor sales, the voters must authorize split liquor. There is a limited exception from this election requirement for licenses issued to certain clubs and congressionally chartered veterans’ organizations. A city with a municipal liquor store may issue club on-sale intoxicating liquor licenses, as discussed below, without a split liquor election.

Split liquor cities may only issue on-sale liquor licenses to “hotels, clubs, and restaurants.” Criteria for these licenses are discussed in a separate section of this memo.

According to AGED, a city with a municipal liquor store may issue temporary on-sale intoxicating licenses without holding a split liquor election.

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.

## D. Increasing maximum number of on-sale licenses election

State statute places limits on the number of on-sale intoxicating liquor licenses cities can issue based upon city population. 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. At the same time, certain commonly issued licenses do not count toward the statutory limit. This alone may eliminate the need for many cities to pursue this type of election.



## RELEVANT LINKS:

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

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

[Minn. Stat. § 340A.101, subd. 14.](#)  
See Part I-B-*Off-sale licenses* and C-*On-sale licenses*.

[Minn. Stat. § 340A.405, subd. 1\(a\).](#)

See Part V-C-2 *Off-sale brew pub or brewers licenses*.

[Minn. Stat. § 340A.405, subd. 1\(b\).](#)

[Minn. Stat. § 340A.405.](#)  
[Minn. R. 7515.0440.](#)  
Contact the [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) at (651) 215-6209 for the appropriate form.

If the election is necessary, the city council may state the ballot question in either one of two ways. The first way is to ask for permission to issue intoxicating liquor 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.

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 intoxicating liquor licenses in the number stated in the question.

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

### III. Intoxicating liquor 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 as well as a wine license. As mentioned previously, 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.

#### A. Off-sale intoxicating liquor licenses

With the approval of AGED, 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.
- Certain brewers.

A first class city may also 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 food or grocery stores in Minnesota.

Once the city has approved an off-sale intoxicating liquor license, the license is not valid until the state approves it. The proper form for obtaining state approval can be obtained from AGED. In addition to the form, several pieces of information must be provided to the state according to Minnesota Rules. The same information is sent annually to the state 30 days before the city renews the license.



## RELEVANT LINKS:

[Minn. Stat. § 340A.101, subd. 21.](#)

[Minn. Stat. § 340A.404, subd. 1.](#)

[Minn. Stat. § 340A.101 subd. 13.](#)

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

[Minn. Stat. § 340A.101, subd. 7.](#) See Part III-B-2 *On-sale intoxicating liquor club licenses.*

[Minn. Stat. § 340A.404, subd. 1.](#)

[Minn. Stat. § 340A.101, subd. 10.](#)

[Minn. Stat. § 340A.101, subd. 27a.](#)

## B. On-sale intoxicating liquor licenses

There are several different variations of the on-sale intoxicating liquor license.

### 1. General on-sale intoxicating liquor

A city without a municipal liquor store may issue an on-sale intoxicating liquor license to the following establishments:

- 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.
- 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. According to AGED, 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, restaurants, clubs or bars located on land owned or leased by the Minnesota Sports Facilities Authority.
- Sports facilities owned by the Metropolitan Sports Commission.
- Exclusive liquor stores.
- 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.
- Convention centers in cities outside of the seven-county metropolitan area. Similar to the theater license, sales are allowed on all days of the week to individuals attending events at the convention center.

## RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 1.](#)

[Minn. Stat. § 340A.404, subd. 1a.](#)

[Minn. Stat. § 340A.404, subd. 14.](#)

See Part IV-B *Special on-sale wine situations.*

See Part V-C-1 *On-sale brew pub licenses.*

[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](#).

[Minn. Stat. § 340A.404, subd. 3.](#)

[Minn. Stat. § 340A.404, subd. 1.](#)  
See Appendix C. Who issues and who approves?

[Minn. Stat. § 340A.101, subd. 7.](#)

- Owners of a summer collegiate league baseball teams, or their concessions contractor, for sales at a ballpark or stadium within the city. Sales are allowed all days of the week to game attendees.
- Auto racing facilities within the city. Sales are authorized all days of the week and to attendees of the facility. Unlike virtually all other licensed situations, the licensed premises for racetracks need not be compact and contiguous.
- Private, nonprofit colleges within the city, or any entity holding the college's catering contract and a caterer's permit, for service of alcohol on the college premises or any portion, including spaces not compact and contiguous. The license authorizes sales all days of the week.
- Culinary classes (limited on-sale intoxicating liquor license).
- Certain brewers

Cities must provide certain information to the state within 10 days after issuing most on-sale intoxicating liquor licenses. The proper form for reporting this information can be obtained from AGED.

The city must also inform AGED if any of the following events occur:

- A license transfer (NOTE: A new application must be submitted to AGED in order to transfer a license).
- A license cancellation.
- A license suspension.
- A license revocation.

## 2. On-sale intoxicating liquor club licenses

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

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:

## RELEVANT LINKS:

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

[A.G. OP. 218-G15 \(Aug. 2, 1947\).](#)  
See Part XI - 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.

[Minn. Stat. § 340A.406.](#)

[Minn. Stat. § 410.01.](#)

- 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.
- 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 bona fide 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 state must approve the license, or it is not effective. In addition to obtaining approval, cities must provide certain information to the state within 10 days after issuing an on-sale intoxicating liquor license, including club licenses. The proper forms can be obtained from AGED.

### 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.

## RELEVANT LINKS:

[Minn. Stat. § 340A.601, subd. 5.](#)  
See Part II - C *Split liquor election.*

See Part III-B-1 *for hotel requirements.*  
See Part III-B-2 *for club requirements.*  
See Part III-B-1 *for restaurant requirements.*

See Part V-C-4 *Brewer taproom license.*

See Part V-C *Brewers and brew pubs* and VI *Microdistilleries.*

[Minn. Stat. § 340A.404, subd. 10.](#)

See Part V-C-3 *Temporary special event license.*

See Part VI-C *Temporary special event license.*  
See Part IV-B-2 *Farm wineries.*

[Minn. Stat. § 340A.404, subd. 10.](#)

See Part VII-C *Caterer's permits.*

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

Cities that operate municipal liquor stores and also issue private licenses (“split liquor” cities) are limited in the kinds of businesses they may grant on-sale liquor licenses.

A split liquor city may issue private on-sale intoxicating liquor licenses to only the following limited types of establishments:

- Hotels that would qualify for an on-sale intoxicating liquor license.
- Clubs that meet the criteria for a “club” intoxicating liquor license.
- Restaurants that would qualify for an on-sale intoxicating liquor license.

Additionally, cities with municipal liquor stores may issue a “taproom license” to certain small brewers.

## 5. Brew pubs and microdistilleries

In addition to an on-sale license for a restaurant on the premises of a brewery, cities can issue special on-sale licenses to particular brew pubs and microdistilleries. These are discussed later in this memo.

## 6. Temporary on-sale intoxicating licenses

The city council may issue temporary on-sale intoxicating liquor licenses to only 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 (subject limits in Minn. Stat. § 340A.410, subd.10).
- A state university.
- Certain brewers.
- Microdistilleries.
- Farm wineries (for sale at a county fair).

In most cases listed above, the temporary license may be issued to these organizations only 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, and 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.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.601, subd. 5. Minn. Stat. 340A.404, subd. 10.](#)

[Minn. Stat. § 340A.410, subd. 10.](#)

See Part III-B-6 *Temporary on-sale intoxicating licenses.*

Handbook, *Meetings, Motions, Resolutions, and Ordinances.*

[Minn. Stat. § 340A.404, subd. 4\(a\).](#)

This type of situation is not the same as a caterer’s permit, which is discussed in a later section of this memo.

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 state.

According to AGED, a city with a municipal liquor store may issue temporary on-sale intoxicating licenses without holding a split liquor election.

A city may issue a limited number of temporary licenses in a single year. Under the statute, no city may 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.

## **7. 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. Authorization for off-premises sales of on-sale intoxicating liquor**

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.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.404, subd. 4\(b\).](#)  
[Minn. Stat. § 340A.409.](#)

[Minn. Stat. § 340A.409.](#)

See Part XI - *Liquor liability.*

See Part II – B *Sunday liquor election.*

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)

[Minn. Stat. § 340A.504, subd. 3\(c\).](#) [Minn. Stat. 340A.408, subd. 2.](#)  
See Appendix E. License fees.

[A.G. Op. 218g-19 \(Aug. 7, 1967\).](#)

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)

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

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

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

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.

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. There are suggestions on insurance and liability discussed in a later section of this memo.

## **2. Sunday on-sale intoxicating liquor licenses**

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. An establishment must obtain a Sunday liquor license in order to sell intoxicating liquor on Sunday.

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 8 a.m. on Sundays and 2 a.m. on Mondays.

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.

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:

- Restaurants that have an on-sale intoxicating liquor license and a minimum seating capacity of 30 persons.
- Clubs that have an on-sale intoxicating liquor license and a seating capacity of at least 30 persons.
- Bowling centers that have an on-sale intoxicating liquor license and a seating capacity of at least 30 persons.
- Hotels that have an on-sale intoxicating liquor license.



## RELEVANT LINKS:

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)  
[Minn. Stat. § 340A.101, subd. 25.](#)

[Minn. Stat. § 340A.504, subd. 3\(b\).](#)  
[Minn. Stat. § 340A.504, subd. 6.](#)

[Minn. Stat. § 340A.404, subd. 10.](#)  
[Minn. Stat. § 340A.404, subd. 1\(b\) to \(d\), 1a.](#)

[Minn. Stat. § 340A.504, subd. 7.](#)  
See Department of Public Safety's Alcohol and Gambling Enforcement Division for the appropriate form.

See Part VIII *Tastings*.

[Minn. Stat. § 340A.419.](#)

[Minn. Stat. § 340A.509.](#)

In addition to having a seating capacity of at least 30 persons, an establishment must have an on-sale intoxicating liquor license. 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.

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 8 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 equally.

Some Sunday sales are permitted without a Sunday liquor election. 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, convention center, summer collegiate baseball league owner, or raceway authorizes sales on all days of the week to persons attending events at their respective premises without a special liquor election to allow Sunday sales.

### **3. 2 a.m. On-sale intoxicating liquor permit**

Typically intoxicating liquor on-sale is not permitted after 1 a.m. However, cities may by ordinance choose to authorize the sale of on-sale intoxicating liquor at licensed establishments until 2 a.m. Once the city has amended its ordinance, liquor licensees must apply for a special permit from the state and pay a fee based on a sliding fee scale. This liquor permit is valid for 12 months from the date of approval by AGED.

### **4. Wine, malt liquor, and spirits tastings**

Under certain circumstances, an exclusive liquor store may conduct a tasting event lasting up to four hours. Additionally, exclusive liquor stores may conduct classes for a fee and allow tastings in the course of those classes provided the amount served is no more than allowed for culinary classes. 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 by ordinance.

## RELEVANT LINKS:

[Minn. Stat. § 340A.101, subd. 29.](#)

[Minn. Stat. § 340A.404, subd. 5\(a\).](#)

[Minn. Stat. § 340A.404, subd. 5.](#) See Part III –B-1 *General on-sale intoxicating liquor.*

[Minn. Stat. § 340A.404, subd. 5\(c\).](#)

[Minn. Stat. § 340A.4011, subd. 1.](#)

[Minn. Stat. § 340A.404, subd. 1\(b\).](#)

[Minn. Stat. § 340A.404, subd. 1\(c\).](#)

## IV. Wine licenses

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.

### A. On-sale wine licenses

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 24 percent alcohol by volume. If a person wants to sell wine that has more than 24 percent alcohol by volume, he or she will need an intoxicating liquor license.

The AGED has said wine coolers that actually contain wine may be sold under a wine license as long as they do not contain wine that is more than 24 percent alcohol by volume. These days, however, most “coolers” are in fact low alcohol malt liquor.

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, 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:

- Restaurants that would qualify for an on-sale intoxicating liquor license.
- 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 certain bed and breakfasts discussed below).
- Theaters within the city where live performances are presented to ticket holders. This license allows sales all days of the week.
- Convention centers in cities outside of the seven-county metropolitan area. This license allows sales all days of the week.

## RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 1\(d\).](#)

[Minn. Stat. § 340A.4041.](#)

[Minn. Stat. § 340A.404, subd. 5\(a\).](#)

[Minn. Stat. § 340A.408, subd. 2\(c\).](#)

[Minn. Stat. § 340A.404, subd. 3.](#)

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

[Minn. Stat. § 340A.4041.](#)

[Minn. Stat. § 340A.509.](#)

- An owner of a summer collegiate league baseball team, or the person holding a concessions or management contract with that owner, for beverage sales at a ballpark or stadium located within the city during summer collegiate league baseball games at the ballpark or stadium. This license allows sales all days of the week.
- Culinary classes under certain circumstances discussed below.
- Entities for which special authorizing legislation has been obtained from the state Legislature.

A Sunday election is not required for a wine licensee to sell wine on a Sunday. But for restaurants seeking a wine license, cities may restrict sales to all days but Sunday by putting such a restriction in the license.

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.

Cities must provide certain information within 10 days after issuing most on-sale wine licenses. The proper form for reporting this information can be obtained from AGED.

And although not specifically required by law in all instances, AGED requires cities to obtain approval on all wine licenses issued.

## B. Special on-sale wine situations

### 1. Culinary class limited on-sale license

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

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

This license authorizes the licensee only 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.

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.

## RELEVANT LINKS:

[Minn. Stat. § 340A.315.](#)  
[Minn. Stat. § 340A.101,](#)  
[subd. 11.](#)

[Minn. Stat. § 340A.315,](#)  
[subd. 2.](#)

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

[Minn. Stat. § 340A.404,](#)  
[subd. 10a.](#)

[Minn. Stat. § 340A.405,](#)  
[subd. 4.](#)

## 2. Farm wineries

Farm wineries are licensed by the state, and require no city approval unless they wish to sell at a county fair within the city. 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.

The state-issued 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 75,000 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. Farm wineries may also offer samples of (but not sell) distilled spirits, such as cognac, manufactured on the premises.

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.

Cities may issue state-licensed farm wineries temporary licenses for the on-sale of intoxicating liquor produced by the winery at a county fair located within the city. This license must be approved by the state.

## C. 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: the temporary off-sale wine license for auctions.

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 state. 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.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.4175.](#)

[Minn. Stat. § 340A.404, subd. 5\(c\).](#)

[Minn. Stat. § 340A.4011, subd. 1.](#)

According to AGED, a list of wines that will be offered at the auction must accompany the application for the temporary off-sale wine license.

## **D. Wine festivals (temporary on-sale)**

With approval of the state, a city may issue a temporary on-sale wine license to a bona fide association of owners and operators of wineries sponsoring, and for use at, an annual festival showcasing wine of association members. The license authorizes sale of no more than two glasses per customer and off-sale by the bottle of up to six glasses per customer. It also authorizes dispensing of free samples of wine available for purchase within the designated premises of the festival.

A “bona fide association of owners and operators of wineries” is defined by the statute as an association of more than 10 wineries that has been in existence for more than two years at the time of application for the temporary license.

## **E. Wine license exemptions**

### **1. Certain bed and breakfasts**

As noted above, a city may issue an on-sale wine license to a licensed bed and breakfast facility with the approval of AGED. The license allows a bed and breakfast facility to furnish wine to registered guests of the facility, and if the facility contains a licensed commercial kitchen, to guests attending private events at the facility.

Certain bed and breakfast establishments may serve their guests a limited amount of wine or Minnesota-produced beer without obtaining a liquor license. In order to do so, a bed and breakfast facility must to the following:

- 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, or no more than one twelve-ounce glass of Minnesota-produced beer per day, to each person renting a room.
- Allow the wine or beer to be consumed only on the premises.
- Charge no additional fee for the wine or beer.
- Register the bed and breakfast facility with AGED.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.34.](#)

[See 27 C.F.R. § 24.75.](#)

[Minn. Stat. § 340A.403, subd. 1.](#)

[Minn. Stat. §§ 340A.101, subds. 19 and 14. Minn. Stat. § 340A.416, subd. 1.](#)

[Minn. Stat. § 340A.504, subds. 1, 3.](#)

[Minn. Stat. § 340A.412, subd. 6.](#)  
[See Part III-B-3 \*On-sale/off-sale combination licenses.\*](#)

## **2. Wine-on-premises stores**

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.

## **V. 3.2 Percent malt liquor (beer), strong beer, and brew pub licenses**

### **A. 3.2 Percent malt liquor (beer)**

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. However, if a city chooses not to issue 3.2 percent malt liquor licenses, beer may only be sold under an intoxicating liquor license.

A city that 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.

The same would hold true for Sunday sales of 3.2 percent malt liquor. Sunday elections determine only a city’s ability to issue licenses for Sunday on-sale of intoxicating liquor.

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

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.



## RELEVANT LINKS:

[Minn. Stat. § 340A.411, subd. 1.](#)

[Minn. Stat. § 340A.101, subd. 25.](#)  
[Minn. Stat. § 340A.101, subd. 13.](#)  
[Minn. Stat. § 340A.101, subd. 7.](#)

[Minn. Stat. § 340A.403, subd. 3.](#)

[Minn. Stat. § 340A.411, subd. 2.](#)

[Minn. Stat. § 340A.411, subd. 3.](#)

[Minn. Stat. § 340A.408, subd. 1.](#)  
See Appendix E. *License fees.*

[Minn. Stat. § 340A.403, subd. 2.](#)

[Minn. Stat. § 340A.101, subd. 7.](#) See Part III-B-2 *On-sale intoxicating liquor club licenses.*

See [Minn. Stat. ch. 309.](#)

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

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.

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.

All retail 3.2 percent malt liquor licenses are 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.

Cities may not issue a 3.2 percent malt liquor license that includes the term “non-intoxicating malt liquor.” Cities should use the term “3.2 percent malt liquor” instead.

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

## 3. Temporary on-sale 3.2 percent malt liquor licenses

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:

- A club as described in the earlier discussion of “club licenses.”
- 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.

## RELEVANT LINKS:

[See Minn. Stat. ch. 315.](#)

[See Minn. Stat. ch. 317A.](#)

[Minn. Stat. § 340A.403, subd. 2.](#)

[Minn. Stat. § 340A.404, subd. 1\(d\).](#)  
See Part XI-A *Insurance*.

[Minn. Stat. § 340A.101, subd. 16.](#)

[Minn. Stat. § 340A.404, subd. 1.](#)

See Part V-C-4 *Brewer taproom license*.

- 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 nonprofit organization. The liquor statutes do not define this type of organization. However, nonprofit organizations are incorporated under state statutes.

A temporary 3.2 percent malt liquor license may 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 sports teams that want to sell beer at their games.

However, unless the sports team qualifies as one of the above listed organizations (i.e., a nonprofit organization), the city cannot issue the team a temporary beer license. (The one current exception related to this is a license for a summer collegiate baseball league). 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.

## B. Malt liquor

Malt liquor is a general term for any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume. In 1999, the Legislature created the very first “on-sale malt liquor license” for three establishments in Minneapolis. Since then, it has become an option for specific situations found throughout the state.

### 1. On-sale malt liquor licenses

Cities wishing to authorize on-sale of malt liquor, but not wine or distilled spirits may issue on-sale malt liquor licenses to the following specific entities:

- Theaters within the city.
- Convention centers within cities located outside the seven-county metropolitan area.
- An owner of a summer collegiate league baseball team, or their concessions/management contractor for sales at games within the city.
- Certain state-licensed brewers discussed below.

## RELEVANT LINKS:

See Part II-*Liquor elections*.

[Minn. Stat. § 340A.403, subd. 3.](#)

[Minn. Stat. § 340A.404, subd. 5\(b\).](#)

[Minn. Stat. § 340A.409.](#)

See Part II-*Liquor elections*.

See Part IV-B-1 *Culinary class limited on-sale license*.

[Minn. Stat. § 340A.24 subd.1. Minn. Stat. § 340A.101, subd. 3a.](#)

[Minn. Stat. § 340A.24, subd. 4.](#)

Except for brewers, on-sale malt liquor licenses listed above authorize sales on all seven days of the week, according to state law. However, it is not likely a city can issue a license such as this, allowing for Sunday on-sale of malt liquor greater than 3.2 percent alcohol by volume, without having been authorized by the necessary elections.

## 2. Strong beer sales without a separate license

A person may sell “strong beer” (malt liquor greater than 3.2 percent alcohol by volume) without an additional license if the person has an intoxicating liquor license. Additionally, council may authorize by ordinance on-sale of strong beer if the person has both of the following licenses:

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

Liquor liability insurance is also required for strong beer sales.

Again, the sale of strong beer is not allowed in dry cities. And Sunday on-sale of strong beer is not allowed in cities that have not been authorized by a Sunday election, unless a statute specifically allows the sale.

## 3. Culinary class license

The limited on-sale intoxicating liquor license for culinary classes discussed above allows dispensing up to 12 ounces of intoxicating malt liquor as an alternative to wine.

## C. Brewers and brew pubs

### 1. On-sale brew pub licenses

A city may issue a restaurant operated on a brewer’s premises of manufacture (or “brew pub”) an on-sale intoxicating liquor or 3.2 percent malt liquor license if the brewery meets the following criteria:

- Possesses a liquor brewer/manufacturer license issued by the state.
- Manufactures 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.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.24, subd. 2.](#)

[Minn. Stat. § 340A.285.](#)

[Minn. Stat. § 340A.28.](#)

[Minn. Stat. § 340A.285.](#)

[Minn. Stat. § 340A.404, subd. 10\(c\).](#)

See Part III-B-5 *Temporary intoxicating liquor licenses.*

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 and small brewers licenses**

With the consent of the state, a city may issue a brew pub (described above) an off-sale intoxicating liquor or 3.2 percent malt liquor license as well.

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 be in 64-ounce “growlers” or 750 milliliter bottles that 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. At the same time, if Council sets hours of sale, malt liquor may be sold off-sale on Sundays and without holding a Sunday liquor election.

For any state-licensed brewers producing fewer than 20,000 barrels of malt liquor, cities may issue an off-sale malt liquor license—the so-called “small brewer license”—for the brewery premises. Similar to the brew pub off-sale license above, the liquor must be sold in 64-ounce growlers or 750 milliliter bottles properly sealed and tagged, and the total sales at off-sale cannot exceed 500 barrels annually. No brewer may have more than one small brewer off-sale license, and this license must be approved by the state. As with the brew pub off-sale license above, without a Sunday liquor election, the small brewer license authorizes Sunday off-sales if the city sets hours for the Sunday sales.

## **3. Temporary special event license**

With the approval of the state, 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. This license is subject to the same restrictions as other temporary intoxicating liquor licenses, but has its own insurance requirements.

## RELEVANT LINKS:

[Minn. Stat. § 340A.26.](#)

[Minn. Stat. § 340A.33.](#)

[27 C.F.R §§ 25.205 - .206.](#)

[Minn. Stat. § 340A.22, subd. 2.](#)

### **4. Brewer taproom license**

Cities may provide an on-sale malt liquor license to certain state-licensed brewers. The so-called “taproom license” allows on-sale of malt liquor produced by a brewer on the premises or adjacent to a brewery location owned by the brewer. Only relatively small, independent brewers are eligible for a taproom license, so cities interested in this license should consult the statute. A city must notify the state within 10 days of issuing a taproom license. Cities with municipal liquor stores may issue taproom licenses, and cities may allow the taproom to serve on-sale on Sundays regardless of whether Sunday sales have been authorized by election.

### **5. Brew-on-premises stores exemption**

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.

## **VI. Microdistilleries**

### **A. On-sale cocktail room**

The state licenses microdistilleries to provide samples of distilled spirits manufactured on-site. Cities may in addition license a state-licensed distillery to operate a “cocktail room.” This is true regardless of whether a city has established municipal liquor.

The microdistillery cocktail room license authorizes the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. This license is only available to those distilleries licensed as microdistilleries, and no distiller is allowed more than one cocktail room license.

No single business is allowed to hold both a cocktail room license and a taproom license, nor can a single location hold both.

## RELEVANT LINKS:

[Minn. Stat. § 340A.22, subd. 4.](#)

[Minn. Stat. § 340A.404, subd. 10\(c\).](#)

See Part III-B-5 *Temporary intoxicating liquor licenses.*

[Minn. Stat. § 340A.414, subsd. 1, 3, 5.](#)

[Minn. Stat. § 340A.414, subd. 2.](#)

See also [Minn. Stat. § 157.15.](#)

See Part IV-E-1 *Certain bed and breakfasts.*

## B. Off-sale

A city may issue an off-sale license to a state-licensed microdistillery for sales of distilled spirits produced on-site. The city's license authorizes sale of one 375 milliliter bottle per customer per day. The hours of off-sale must be the same as those for retail establishments within the city.

## C. Temporary special event license

With the approval of the state, a city may issue to a microdistillery a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the microdistillery. This license is subject to the same restrictions as other temporary intoxicating liquor licenses, but has its own insurance requirements.

## VII. Special permits

State statutes allow a few special types of liquor permits or licenses which affect cities.

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

Virtually all consumption-and-display permits (commonly called “set-ups” or “bottle club” permits) are issued by the state.

A consumption-and-display (set-up) permit from the state 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. 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 state 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.
- A hotel.
- An establishment licensed for the sale of 3.2 percent malt liquor.
- A licensed resort.



## RELEVANT LINKS:

[Minn. R. 7515.1220, subp. 1.](#)

[Minn. R. 7515.1220, subps. 2, 3.](#)  
[Minn. Stat. § 340A.504, subd. 5.](#)

[Minn. Stat. § 340A.414, subd. 4.](#)

[Minn. Stat. § 340A.414, subd. 9.](#)

[Minn. Stat. § 340A.404, subd. 12.](#)

- 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.”

Except for bottle clubs, storage of alcohol that a person brings is not allowed, and the alcohol must be under its owner’s control at all times. 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.

## **B. Temporary consumption-and-display permits**

Cities may issue a one-day consumption-and-display permit to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

The permit must be approved by the state 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**

The state 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.

AGED contends cities may by ordinance regulate caterers in many ways. Some cities define what minimum percentage of food sales are required to make liquor “incidental” to a food service. Some cities also specify that a caterer’s permit does not authorize one to operate beyond a brief period of time or otherwise function similarly to a typical on-sale business in the city without obtaining the proper license.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.404, subd. 12.](#)

[Minn. Stat. § 340A.404, subd. 12.](#)

See Part III-C-3 *2am On-sale intoxicating liquor permit.*

[Minn. Stat. § 340A.4042.](#)

[Minn. Stat. § 340A.4042.](#)

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.

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.

**D. 2 a.m. On-sale intoxicating liquor permit**

Cities can allow intoxicating liquor on-sale beyond 1 a.m. and up to 2 a.m. If a city allows it by ordinance, an establishment must acquire a permit from the state. This permit is discussed earlier in the memo.

**E. Wine and malt liquor educators**

The state licenses specially trained individuals to provide education on wine or malt liquor in any city in Minnesota, except for cities that have adopted an ordinance prohibiting it. Neither wine education nor malt liquor education is defined, but would include the purchase at retail and serving of the given liquor for educational purposes. The educator license does not authorize off-sale of liquor or orders taken for future sales. Wine and malt liquor educators must be insured in order to receive the license.

Prior to any class authorized under the license, the educators must notify the city’s police chief—or clerk if there is no police department—of the location where the class will take place. The class can seemingly be conducted anywhere except “retail businesses that do not have a liquor license during business hours.”

**VIII. Tastings**

There are three types of liquor tasting events addressed by statute. One is a paid event provided by an exclusive liquor store, another is a charitable fundraiser, and the last is a “home-brew” exhibition, which requires no license. These situations should not be confused with a licensed establishment providing free samples.

**RELEVANT LINKS:**

[Minn. Stat. § 340A.419.](#)

[Minn. Stat. § 340A.419, subd. 2.](#)

[Minn. Stat. § 340A.509.](#)

[Minn. Stat. § 340A.418.](#)

[Minn. Stat. § 340A.404, subd.10.](#)

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

Outside of charitable fund raisers, a tasting is an event not more than four hours long 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.

An exclusive liquor store may conduct a tasting of wine, malt liquor, or spirits on premises licensed for on-sale intoxicating liquor (not by 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.

Exclusive liquor stores may conduct classes for a fee and allow tastings in the course of those classes provided the amount served is no more than allowed for culinary classes.

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 or malt liquor tasting fund raisers**

A charitable, religious, or other nonprofit organization may conduct a wine or malt liquor tasting event if the organization obtains a temporary on-sale intoxicating liquor license and the tasting meets certain conditions. These events may not allow tastings of spirits as permitted for exclusive liquor stores conducting tastings.

According to this law, the tasting must:

- Be conducted by a charitable, religious, or other nonprofit organization.
- Last no more than four hours (unless it is a large convention).
- 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.
- Not allow the sale or the taking of orders of wine for off-premises consumption.

## RELEVANT LINKS:

[Minn. Stat. § 340A.301, subd. 11.](#)

[Minn. Stat. § 340A.510.](#)

[Country Liquors, Inc. v. City Council of City of Minneapolis, 264 N.W.2d 821\(1978\). A.G. Ops. 218g-6 \(Oct. 6, 1944\).](#)

[A.G. Ops. 218g-11 \(Mar 1, 1963\).](#)

[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 \(1963\).](#)

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.

Wine or malt liquor tastings occurring at "on-sale premises" where no charitable organization is participating or where the proceeds are for a designated charity but the tasting is primarily for educational purposes are explicitly excluded from any restriction by this law.

### **3. Home-brewed tastings, exhibitions, and contests**

Home-brewed beer or "fermented fruit juices" may be taken to organized affairs, exhibitions, or competitions, where the general public may sample these unlicensed products. There are some simple notice requirements to be made only at the tasting event itself. The unlicensed homemade products may not themselves be sold or offered for sale.

### **4. Free samples vs. tastings**

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.

## **IX. Licensing**

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.

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."

## RELEVANT LINKS:

*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.

[Minn. Stat. § 340A.402.](#)

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

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:

- A person under 21-years-of-age.
- A person who has had an intoxicating or 3.2 percent malt liquor license revoked within five years of the license application.

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.
- Was a partner in the business or firm where the violation occurred.
- A person not of good moral character and repute.
- A person with a direct or indirect interest in a liquor manufacturer, brewer or wholesaler.

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 AGED may require applicants to provide fingerprints that will be forwarded to the Federal Bureau of Investigation for purposes of a criminal history check.

## RELEVANT LINKS:

[Minn. Stat. § 340A.402 subd.2.](#)

[Minn. Stat. § 340A.412, subd. 2\(a\).](#)

[Minn. Stat. § 340A.412, subd. 2\(a\).](#)

[Minn. Stat. § 340A.412, subd. 2\(b\).](#)

[Minn. Stat. § 340A.413.](#)

State law makes a city's police chief responsible for background checks performed prior to a city issuing a liquor license. If the city has no police chief, the county sheriff is responsible. The background check has additional requirements, including a requirement to obtain written consent from the applicant to perform the background check on them.

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

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 state with any additional information the city may require.

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

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

Virtually all cities may issue as many off-sale licenses as their ordinances allow. But for the following licenses, state statute limits the number of licenses a city may issue based on its population:

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

## RELEVANT LINKS:

See Appendix D. *Number of licenses.*

See Part II-D *Increasing maximum number of on-sale licenses election.*

[Minn. Stat. § 340A.413, subd. 4.](#)

[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 later section of this memo contains a table that provides the specific limits on the number of these licenses that may be issued. Fortunately cities can exclude certain common licenses from their count toward the statutory limit, and for most cities, this eliminates concerns about license limits. A city can exceed the limit by permission of the voters.

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 many 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.”

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.



## RELEVANT LINKS:

[Minn. Stat. § 340A.408.](#)  
See Appendix E. *License fees.*

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

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

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

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

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.

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.

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

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.

**RELEVANT LINKS:**

See [Liquor Licensing](#), LMC Model Ordinance.

[Minn. Stat. § 340A.412, subd. 4\(a\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(1\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(5\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(6\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(7\).](#)

[Minn. Stat. § 340A.412, subd. 4\(b\).](#)

- 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.

Ordinance language regarding this provision can be found in the model liquor ordinance.

## **E. Establishment location**

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:

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

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.

## RELEVANT LINKS:

[Minn. R. 7515.0430, subp. 5.](#)

[Minn. Stat. § 340A.101, subd. 15.](#)

[Minn. Stat. § 340A.410, subd. 7.](#)

[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.

[Knutson 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).

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.

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.

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.

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:

- 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.

## RELEVANT LINKS:

[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](#).

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.

AGED 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 AGED to do so under section 340A.508, subd. 3.
- Failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages or the operation of the licensed establishment.
- Failed to comply with a lawful license condition duly imposed by the licensing authority or agreed to by the license or permit holder.

The city or AGED may do any of the following to enforce the above restrictions:

- Revoke the license or permit.
- Suspend the license or permit for up to 60 days.
- Impose a civil penalty of up to \$2,000 for each violation.
- Any combination of these sanctions

## RELEVANT LINKS:

[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).

[Minn. Stat. § 340A.415.](#)

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

[Minn. Stat. § 340A.401.](#)

[Minn. Stat. § 340A.504. A/A, Inc. v. City of Faribault](#), 569 N.W.2d 546 (Minn. Ct. App. 1997).

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.

### 3. Civil penalties

Both AGED 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 AGED 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.

## X. Regulation of liquor sales

Liquor is regulated at several different levels. Federal regulation exists for manufacture, shipment, and sales.

The state regulates wholesale and retail sales through AGED. 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. AGED 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

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 intoxicating liquor only on the following days:

## RELEVANT LINKS:

[A/A, Inc. v. City of Faribault, 569 NW2d 546 \(Minn. Ct. App. 1997\).  
Minn. Stat. § 340A.504, subd. 6.](#)

[Minn. Stat. § 340A.504.](#)

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

The statutes only prohibit off-sale licensees from selling intoxicating liquor, and 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

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.

## RELEVANT LINKS:

[Minn. Stat. § 340A.504, subd. 6.](#)

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

[Minn. Stat. § 340A.410, subd. 5\(a\).](#)  
[Minn. Stat. § 349.30.](#) [Minn. Stat. § 609.761, subd. 4.](#)

[Minn. Stat. § 340A.410, subd. 5\(b\).](#)

[Minn. Stat. ch. 349.](#)

See [Public Law Number 100-497.](#)

[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.](#)

[Minn. Stat. § 609.761, subd. 3.](#)

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.

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

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.
- 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” and “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.

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”, and “whist.”



## RELEVANT LINKS:

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

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

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.

## RELEVANT LINKS:

[Minn. Stat. § 340A.503.](#)

[Minn. Stat. § 340A.412, subd. 10.](#) [Minn. Stat. § 181A.115.](#)

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

### 1. Underage drinkers

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.

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:

**RELEVANT LINKS:**

[Minn. Stat. § 340A.513, subd. 2.](#)

[Minn. Stat. § 340A.513, subd. 2.](#)

[Minn. Stat. § 340A.513, subd. 4.](#)

[Minn. Stat. § 340A.513, subd. 5.](#)

- 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.

## **F. Beer keg sales**

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.

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.

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.

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 AGED.

## RELEVANT LINKS:

[Minn. Stat. § 340A.509.](#)

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

See Part XI-A *Insurance*.

## G. Common local restrictions

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:

- **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.

## RELEVANT LINKS:

[Minn. Stat. § 340A.501.](#)  
[Minn. Stat. § 340A.701.](#)  
[Minn. Stat. § 340A.702.](#)  
[Minn. Stat. § 340A.703.](#)

[Minn. Stat. § 340A.801.](#)  
[Minn. Stat. § 340A.409.](#)  
[Minn. Stat. § 340A.509.](#)

[Minn. Stat. § 60A.07, subd. 4.](#)  
[Minn. Stat. § 60A.206.](#)

[Minn. Stat. § 340A.409, subd. 4.](#)

## XI. Liquor liability

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

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 state 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:

- 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.

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

## RELEVANT LINKS:

- 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.

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

[Minn. Stat. § 340A.409.](#)

## B. Illegal sales

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.

[Minn. Stat. § 340A.801-802.](#)

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.

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

Illegal sales include the following:

- 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.
- Sales during prohibited hours or days
- 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.502.](#)

[Minn. Stat. § 340A.504.](#)

[Minn. Stat. § 340A.702.](#)  
*Clark v. Peterson*, 741 N.W.2d 136 (Minn. Ct. App. 2007).

## RELEVANT LINKS:

[Minn. Stat. § 340A.503.](#)  
[Minn. Stat. § 340A.412,](#)  
[subd. 10.](#) See Part X - E -  
*Underage drinkers.*

[Minn. Stat. § 340A.505.](#)

[Minn. Stat. § 340A.501.](#)

*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).

See LMC information memo,  
*Police Department  
Management and Liability  
Issues.* Section IV-B, *Off-  
duty employment  
(moonlighting).*

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

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

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.

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.



**RELEVANT LINKS:**

**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.

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 X-A *Insurance*.

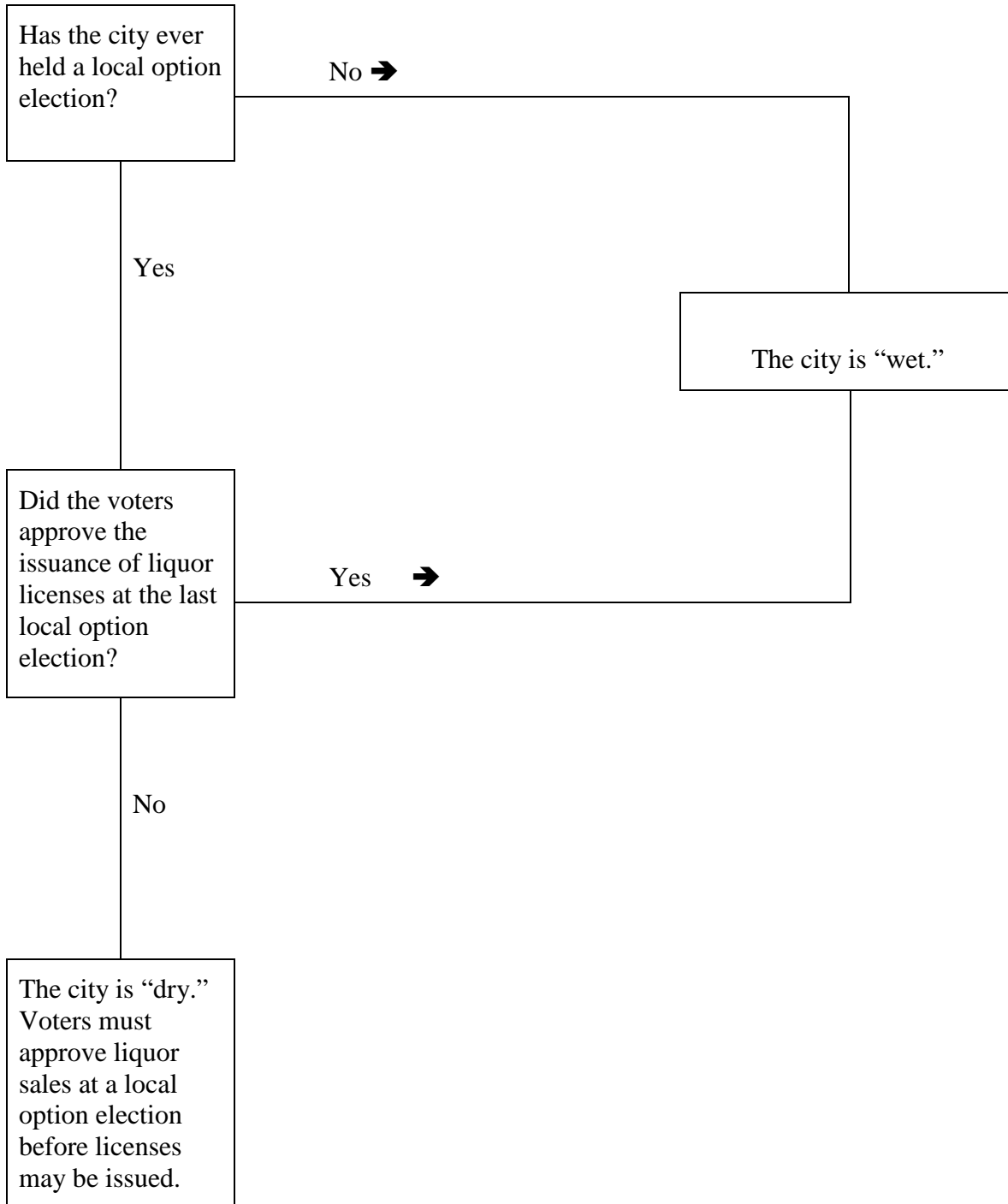
Cities often ask how much insurance should be required when liquor sales will be made on city property. While the statutes give some guidelines, they indicate only the minimum amount of insurance required. Cities may require amounts higher than the minimum amounts in the statutes, and should consider 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.

[Minn. Stat. § 340A.909.](#)

Finally, if beer will be sold on-sale at a permanent or temporary publicly owned building or structure, the city or agency must ensure a Minnesota-produced beer is available for purchase at each station where beer is sold. This does not apply to municipal liquor stores, nor does it apply to events authorized by temporary permit in which liquor is provided at no additional cost to the attendees. Cities may wish to include this requirement as a term of facility use.

## 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 issue intoxicating liquor licenses? [**Or:** Shall the city discontinue issuing intoxicating liquor licenses?]

Yes \_\_\_\_\_ No \_\_\_\_\_

### 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 \_\_\_\_\_

*Note:* Cities with municipal liquor stores should remove bowling centers from the list above since those cities cannot issue liquor licenses of any sort to bowling centers.

### 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 for the sale of intoxicating liquor to hotels and restaurants, as well as to clubs?

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	*	Minn. Stat. § 340A.404, subds. 1, 1a.
Club on-sale intoxicating liquor license	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 1(a)(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 <i>off-sale</i>	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, subds. 1(b) to (d), 5(c).
Wine festival (limited temp. on-sale wine license)	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 5(a).
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 license	Commissioner of Public Safety		Minn. Stat. § 340A.315.
Farm winery temporary on-sale intoxicating liquor license (for sales at county fair)	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 10(a).
Bed-and-breakfast wine license	City	Commissioner of Public Safety	Minn. Stat. § 340A.404, subd. 5(c).
Bed-and-breakfast wine/beer license exemption	Must register with Commissioner of Public Safety		Minn. Stat. § 340A.4011, subd. 2.
3.2 percent malt liquor licenses - both year-long and temporary	City		Minn. Stat. § 340A.403, subd. 1.
On-sale malt liquor	City		Minn. Stat. § 340A.404, subds. 1. 5(b).
On-sale brew pub license	City		Minn. Stat. § 340A.24, subd. 1..
Off-sale brew pub or micro-brewer's license	City	Commissioner of Public Safety	Minn. Stat. § 340A.24, subd. 2.

Temporary on-sale intoxicating liquor license for micro-brewers or microdistilleries	City	Commissioner of Public Safety	<a href="#">Minn. Stat. § 340A.404, subd. 10(c).</a>
Brewer taproom license (on-sale malt liquor)	City		<a href="#">Minn. Stat. § 340A.26.</a>
Small brewer license (off-sale malt liquor)	City	Commissioner of Public Safety	<a href="#">Minn. Stat. § 340A.28.</a>
Consumption-and-display (set-ups) permit	Commissioner of Public Safety	City	<a href="#">Minn. Stat. § 340A.414, subd. 2 and 5.</a>
One day consumption-and-display permit	City	Commissioner of Public Safety	<a href="#">Minn. Stat. § 340A.414, subd. 9.</a>
Caterer's permit	Commissioner of Public Safety		<a href="#">Minn. Stat. § 340A.404, subd. 12.</a>
Wine or malt liquor educator license	Commissioner of Public Safety	(City may have ordinance prohibiting wine or malt liquor education)	<a href="#">Minn. Stat. § 340A.4042.</a>
Microdistillery on-sale and off-sale	City	Notice to Commissioner of Public Safety	<a href="#">Minn. Stat. § 340A.22.</a>
Wine educator/Malt Liquor Educator	Commissioner of Public Safety		<a href="#">Minn. Stat. § 340A.4042.</a>

\* AGED 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 AGED at (651) 215-6209 with any questions they have regarding this interpretation.

\*\* Though approval is not always required by statute, the state reserves the right to approve on-sale wine licenses issued by cities.

\*\*\* This is authorization by ordinance, not a license.

## 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"> <li>◆ First-class cities--not more than one license for each 5,000 of population.</li> <li>◆ All other cities--set by city.</li> </ul>	<a href="#">Minn. Stat. § 340A.413, subd. 5.</a>
On-sale intoxicating liquor licenses	<p>The maximum number of licenses varies depending upon the size and location of the city:</p> <p>First-class cities (home rule charter or statutory)--one license for every 1,500 of population up to 200 licenses.</p> <p>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).</p> <p>Third-class cities (home rule charter or statutory)--up to 12 licenses.</p> <p>Fourth-class cities (home rule charter or statutory)--not more than 7 licenses.</p> <p>Statutory cities of 5,000-10,000--not more than 6 licenses.</p> <p>Statutory cities of 2,500-5,000--not more than 5 licenses.</p> <p>Statutory cities of 500-2,500--not more than four licenses.</p> <p>Statutory cities under 500--not more than 3 licenses.</p> <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><a href="#">Minn. Stat. § 340A.413, subd. 1.</a></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.</p> <p>Fourth-class cities--9 licenses.</p> <p>Statutory cities of 2,500-6,000--6 licenses.</p>	<a href="#">Minn. Stat. § 340A.413, subd. 2.</a>
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.	<a href="#">Minn. Stat. § 340A.413, subd. 4.</a>
Combination on-sale/off-sale intoxicating liquor licenses	Statute does not provide limit. Total licenses set by city.	<a href="#">Minn. Stat. § 340A.413, subd. 4.</a>
Split-liquor private on-sale intoxicating liquor licenses*	See under "on-sale intoxicating"	<a href="#">Minn. Stat. § 340A.601, subd. 5.</a> and <a href="#">Minn. Stat. § 340A.413.</a>
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.	<a href="#">Minn. Stat. § 340A.413, subd. 4(3).</a>
Sunday on-sale intoxicating liquor licenses	Statute does not provide limit. Total licenses set by city.	<a href="#">Minn. Stat. § 340.504 subd. 3.</a>



Type of license	Maximum number of licenses	Statute
On-sale 3.2 percent malt liquor (beer)	Statute does not provide limit. Total licenses set by city.	Minn. Stat. § 340A.403, 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.
Small brewer off-sale	No brewer may have more than one small brewer license.	Minn. Stat. § 340A.28, subd. 1.
Microdistillery Cocktail Room	A distiller may only have one cocktail room license.	Minn. Stat. § 340A.22, subd. 2.

## 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"> <li>◆ First class cities--\$1,500.</li> <li>◆ Cities over 10,000 population located outside of the seven-county metro area other than cities of the first class -- \$560</li> <li>◆ 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.</li> <li>◆ Cities between 5,000 and 10,000--\$310.</li> <li>◆ Cities with less than 5,000--\$240.</li> </ul> <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>	<a href="#">Minn. Stat. § 340A.408, subd. 3.</a>
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.	<a href="#">Minn. Stat. § 340A.408, subd. 2.</a>
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"> <li>◆ Under 200 members--\$300.</li> <li>◆ 201-500 members--\$500.</li> <li>◆ 501-1,000 members--\$650.</li> <li>◆ 1,001-2,000 members--\$800.</li> <li>◆ 2,001-4,000 members--\$1,000.</li> <li>◆ 4,001-6,000 members--\$2,000.</li> <li>◆ Over 6,000 members--\$3,000.</li> </ul>	<a href="#">Minn. Stat. § 340A.408, subd. 2(b).</a>
Annual Sunday on-sale intoxicating	Set by city. Can't exceed \$200.	<a href="#">Minn. Stat. § 340A.504, subd. 3.</a>
Annual combination on-sale/off-sale	Set by city. Statutes do not specify amount. But consider limits for individual on-sale and off-sale.	<a href="#">Minn. Stat. § 340A.406.</a>
Temporary on-sale intoxicating	Set by city.	<a href="#">Minn. Stat. § 340A.404, subd. 10.</a>

Type of license	Maximum fee amount	Statute
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).
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.4041.
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, subs. 6d, 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"> <li>• 3.2 beer--\$50</li> <li>• Intoxicating--\$250</li> <li>• Tour boats (intoxicating)--\$1,500</li> </ul> (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.