

CHAPTER 580
ALCOHOLIC BEVERAGES

Section

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580.01 Definitions.

The following terms, as used in this Chapter, shall have the meanings stated in this section:

“3.2 percent malt liquor” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

“Alcoholic beverage” means any beverage containing more than one-half of one percent alcohol by volume.

“Applicant” means a person making an application for a license under this Chapter 580.

“Application” means the form provided by the City that an applicant must complete as a prerequisite for license consideration.

“Bona fide association of owners and operators of wineries” means an association of more than ten wineries that has been in existence for more than two years at the time an application is made.

“Brewer” means a person who manufactures malt liquor for sale.

“Brew pub” means a brewer who also holds one or more retail on-sale licenses and who manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by Minn. Stat. §340A.24.

“Clean Indoor Air Act” means, collectively, Minnesota’s Clean Indoor Air Act, as amended, and the rules implementing such act, as amended.

“Club” means an incorporated organization organized under the laws of the State of Minnesota for civic, fraternal, social, or business purposes, or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran’s organization, which: i) has more than thirty (30) members; ii) has owned or rented a building or space in building for more than one (1) year that is

suitable and adequate for the accommodation of its members; and iii) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees receive any profit from the distribution or sale of beverages to the members of the club, or to their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

“Chapter 580” means this Chapter 580 of the Waconia City Code, as amended.

“Commissioner” means the Minnesota Commissioner of Public Safety.

“Distilled spirits” means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

“Exclusive liquor store” means an establishment used exclusively for the sale of: alcoholic beverages; tobacco products; ice; beverages, either liquid or powder, specifically designed for mixing with intoxicating liquor; soft drinks; liquor-filled candies; food products that contain more than one-half of one percent alcohol by volume; cork extraction devices; books and videos on the use of alcoholic beverages, magazines and other publications published primarily for information and education on alcoholic beverages; multiple use bags designed to carry purchased items; devices designed to ensure the safe storage and monitoring of alcohol in the home to prevent access by underage drinkers; home brewing equipment; and clothing marked with the specific name, brand or identifying logo of the exclusive liquor store and bearing no other name, brand or identifying logo.

“Farm winery” means a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.

"Gathering" means a group of three or more persons who have assembled or gathered together for a social occasion or other activity.

“General food store” means a business primarily engaged in selling food and grocery supplies to the public for off-premise consumption.

“Growler” means a 64-ounce container packaged and labeled as required by Minn. Stat. §340A.285.

“Home brewing equipment” means portable equipment designed for use in home manufacturing of malt liquor in quantities of ten (10) gallons or less and supplies and ingredients for home manufacture of malt liquor.

"Host" means to aid, conduct, sponsor, organize, supervise, control, or allow.

“Hotel” means an establishment where food and lodging are regularly furnished to transients and which has: i) a dining room serving the general public at tables and having facilities for seating at least thirty (30) guests at one time; and ii) ten (10) or more guest rooms.

“Intoxicating liquor” means ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

“License fee” means the sum of money paid to the City for the issuance of a license issued by the City to transact and carry on the business stated in the license, which fee shall be paid in full and

prior to issuance of the license, unless installment payments are expressly allowed by this Chapter 580.

“License” means a license, permit or registration document issued to an applicant allowing the applicant to carry on and transact the business stated in such document.

“Licensee” means an applicant who applied for, received and holds a valid, current, unexpired, and unrevoked license for carrying on the business stated in such license.

“Licensed premises” means the compact and contiguous space specified in the license granted. In the case of a restaurant, club, or exclusive liquor store licensed for on-sale of alcoholic beverages and located on a golf course, “licensed premises” means the entire golf course except for areas where motor vehicles are regularly parked or operated.

“Malt Liquor” means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

“Manufacturer” means a person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor for sale.

“Microdistillery” means a distillery operated within the State of Minnesota producing premium, distilled spirits in total quantity not to exceed 40,000 proof gallons in a calendar year.

“Minn. Stat. Chapter 340A” means Minn. Stat. Chapter 340A, as amended.

“Nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

“Off-sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

“On-sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

“Outdoor area” means any area that is not bounded by walls, doorways, and closeable windows covering one hundred percent (100%) of the combined surface area of the vertical planes constituting the perimeter of the area. A wall does not include any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

“Package” means a sealed or corked container of alcoholic beverage.

"Parent" means a person having the following relationship to a juvenile: i) a natural parent, adoptive parent, or step-parent; ii) a legal guardian; or iii) a person to whom legal custody has been given by order of a court.

“Person” means any individual, partnership, unincorporated association, or entity.

“Restaurant” means any establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a seating capacity for twenty-five (25) or more guests at one time.

“Retail” means sale for consumption.

“Sale”, “sell”, and “sold” means furnishing merchandise to any person in exchange for money, as part of bartering, or as part of a business transaction,

“Small brewer” means a brewer that produces less than 3,500 barrels of malt liquor in a year.

“Smoking” means inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product and the act of carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment, tobacco or plant product intended for inhalation.

“Wholesaler” means a person who sells alcoholic beverages to persons to whom sale is permitted by Minn. Stat. 340A.310 from a stock maintained in a warehouse in the State of Minnesota.

“Wine” means 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, in each instance containing not less than one-half of one percent nor more than twenty-four percent (24%) alcohol by volume for nonindustrial use. Wine does not include distilled spirits.

580.02 Authority.

Subd. 1 Adoption of State Law by Reference. The provisions of Minn. Stat. Chapter 340A (pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor) are incorporated into this Chapter 580 by reference. Any term used in this Chapter 580 that is not defined in Section 580.01 above but is defined in Minn. Stat. Chapter 340A shall be given the meaning ascribed to it in Minn. Stat. Chapter 340A.

Subd. 2 City’s Authority. Pursuant to Minn. Stat. Chapter 340A, the City may impose additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those set forth in Minn. Stat. Chapter 340A.

580.03 General Provisions.

Subd. 1 Consumption in Public Places Prohibited. No person shall consume an alcoholic beverage in a public park, on any public street, sidewalk, parking lot or alley, or in any other public place, except as expressly allowed by this Chapter 580 or Minn. Stat. Chapter 340A.

Subd. 2 License Required for Sale. No person shall sell or offer for on-sale or off-sale any alcoholic beverage without a valid, current, unexpired, and unrevoked license therefor issued by the City or, if Minn. Stat. Chapter 340A so requires, the Commissioner.

Subd. 3 Prohibitions Regarding Persons Under Twenty-One (21) Years of Age.

- A. No licensee or any employee of a licensee shall sell or serve any alcoholic beverage to any person under twenty-one (21) years of age or permit any such person to consume any alcoholic beverage at a licensed premises unless such person under twenty-one (21) years of age is under the supervision of a responsible person over the age of twenty-one (21) for training, education, or research purposes. Prior notification to the City is required unless the supervised alcohol purchase attempt is for professional research

conducted by post-secondary educational institutions or state, county, or local health departments.

- B. No person under twenty-one (21) years of age shall enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage. However, a person who is eighteen (18), nineteen (19), or twenty (20) years of age may enter such a premises to perform work for the establishment (including the serving of alcoholic beverages), to consume meals, or to attend social functions that are held in a portion of the establishment where liquor is not sold.
- C. No person under twenty-one (21) years of age shall misrepresent his or her age for the purpose of obtaining any alcoholic beverage.
- D. No person under twenty-one (21) years of age shall consume or have in his or her possession any alcoholic beverage, with the intent to consume the same at a place other than the household of his or her parent or legal guardian. Possession of any alcoholic beverage by a person under twenty-one (21) years of age at a place other than the household of his or her parent or legal guardian shall be prima facie evidence of his or her intent to consume same at a place other than the household of his or her parent or legal guardian.

Subd. 4 Social Hosts.

- A. It is unlawful for any person to:
 - 1. host an event or gathering;
 - 2. at any private or public location;
 - 3. where an alcoholic beverage is present;
 - 4. when the person knows or reasonably should know that a person under the age of twenty-one (21) will or does:
 - a. consume any alcoholic beverage; or
 - b. possess any alcohol or alcoholic beverage with the intent to consume it; and
 - 5. the person fails to take reasonable steps to prevent consumption or possession by persons under the age of twenty-one (21).
- B. A person is criminally responsible for violating Subd. 4, A., above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.
- C. This Subd. 4 does not apply:

1. to conduct of a person under the age of twenty-one (21), which conduct is permitted by his or her parent and occurs in the parent's household;
2. to legally protected religious observances;
3. when a person under the age of twenty-one (21) is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment; or
4. to the holder of a liquor license issued under Minn. Stat. §340A.503 Subd. 1(a)(1).

580.04 License Applications.

Subd. 1 Forms. Each application for a license issued pursuant to this Chapter 580 shall be made at the office of the City Clerk using the forms prescribed by the Commissioner, together with such additional information as the City Council may require, from time to time. All questions asked or information required by such application form shall be answered fully and completely by each applicant. Upon completion of such application form and the provision of all required information, the application form shall be referred to the City Clerk for examination and verification.

Subd. 2 Description of Premises. The application shall specifically describe the compact and contiguous premises within which alcoholic beverages may be dispensed and consumed and no license shall be effective or valid beyond the licensed premises. No license shall describe any outdoor area as part of the licensed premises except as follows:

- A. Golf Courses. In the case of a restaurant, club or exclusive liquor store licensed for on-sale of alcoholic beverages and located on a golf course, the licensed premises shall include the entire golf course except for areas where motor vehicles are regularly parked or operated.
- B. Temporary Licenses. The following temporary licenses may describe an outdoor area as the licensed premises:
 1. A temporary on-sale intoxicating liquor license issued pursuant to Section 580.06, Subd. 4;
 2. A temporary 3.2 percent malt liquor license issued pursuant to Section 580.06, Subd. 7 ;
 3. A temporary license for a farm winery to sell intoxicating liquor at a county fair issued pursuant to Section 580.06, Subd. 9; and
 4. A temporary license for a bona fide association of owners and operators of wineries to showcase wines produced by members of such association issued pursuant to Section 580.06, Subd. 10.
- C. Outdoor Areas. Outdoor areas within close proximity or adjacent to a building or structure comprising the remainder of the licensed premises including, but not limited to, porches, decks and patios may be included as part of the licensed premises provided all of the following conditions are met:

1. The outdoor area shall not be enclosed in such a manner that the space becomes an indoor area as defined by Minn. Stats. § 144.413.
2. The licensee's dram shop liability carrier shall have acknowledged, in writing, that the outdoor area is covered by dram shop insurance;
3. The outdoor area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material and approved by the City Council;
4. The outdoor area shall be clearly delineated by an approved fence at least 36 inches in height or some other approved structure or barrier that has designated openings for ingress or egress, to prevent the ingress or egress of persons to and from the patio except by way of the designated openings for ingress or egress. Such outdoor area shall be considered compact and contiguous. This requirement shall not apply to any licensed premises that is a restaurant or a hotel;
5. Any exterior stairway or ramp access to an outdoor area six (6) feet or more above grade must be gated so as to require all persons using the outdoor area to enter and exit such area through the building or structure comprising the remainder of the licensed premises; provided, however, this requirement shall not apply to any licensed premises that is a restaurant or a hotel;
6. The outdoor area shall have sufficient vehicle barriers installed to reduce the entry of vehicles into the patio if it is in direct contact with or immediately adjacent to a vehicle parking area
7. If any portion of the outdoor area lies within 200 feet of a residential district, the outdoor area shall be screened in a manner approved by the City Council so as to prevent viewing of the outdoor area from the residential district and to dampen noise and/or deflect noise away from the residential district;
7. The outdoor area shall comply with all applicable laws, zoning district regulations and building codes, including but not limited to those relating to handicap accessibility;
8. Exterior lighting for the outdoor area shall be designed and installed so that the globe is recessed and enclosed on all sides except the bottom and no light is cast directly at any other property;
9. The outdoor area and surrounding landscaping shall be designed to complement the building or structure comprising the remainder of the licensed premises structure; and
10. The outdoor area shall meet all such other requirements as the City Council finds necessary or desirable to protect nearby properties and the public.

Subd. 3 Financial Responsibility. Each applicant shall demonstrate to the City Clerk, as a condition of issuance or renewal of a license: i) proof of financial responsibility as required by Minn. Stat. §340A.409 with regard to liability under Minn. Stat. §340A.409; ii) exemption from such requirements in conformance with Minn. Stat. §340A.409, Subd. 4; or iii) that the Minnesota Statutes expressly state that Minn. Stat. §340A.409 does not apply to the type of license at issue.

In all cases where Minn. Stat. §340A.409 applies, the City will file the required proof or affidavit of exemption with the Commissioner. Any liability insurance policy, bond, proof of deposit, or affidavit filed as proof of financial responsibility under this section shall conform to Minn. Stat. §340A.409. Operation of a business that is required to be licensed by this Chapter 580 without current proof of financial responsibility or an exemption on file with the City is a cause for revocation of the license for all licenses to which Minn. Stat. §340A.409 applies.

Subd. 4 False Statements and Omissions. If any applicant intentionally makes a false statement or material omission on any application form, the false statement or material omission shall constitute cause for denial of the application or, if a license has been issued, revocation of the license.

Subd. 5 Investigation. The City shall investigate each applicant applying for an initial or renewal license to determine whether the applicant is qualified to hold the license applied for in the initial or renewal application. No license provided for herein shall be issued less than thirty-five (35) days after completion and filing of the application form with the City Clerk; provided, however, that such restriction may be waived by the City Council in any case where the applicant has recovered possession of the premises previously licensed by such applicant through mortgage foreclosure, contract for deed cancellation, or through any other type of involuntary reversion, or in the event all necessary investigations have been completed prior to the expiration of such thirty-five (35) day period.

Subd. 6 Licenses are Granted or Denied in the City Council's Discretion; Approval of Commissioner. The City Council may, in its sound discretion, either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license. Further, if Minn. Stat. Chapter 340A requires the Commissioner to approve a license, the granting of the license is conditioned on such approval being obtained.

Subd. 7 Conditions. The City Council may attach any special conditions to a license as it deems appropriate given the nature of the business, the location of the premises, and verified complaints, if any, to protect the health, safety, welfare and quietude of the community and ensure harmony within the location where the premises is located. Violation of any of the conditions shall be grounds for revocation of the license.

Subd. 8 Restrictions on Issuance.

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one (1) license shall be directly or indirectly issued within the City to any one (1) person.
- C. No license shall be issued regarding any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.
- D. No license shall be issued to a person under twenty-one (21) years of age.
- E. No license shall be issued to a person who has had, within five (5) years of the date of the application, an intoxicating liquor or 3.2 percent malt liquor license revoked.
- F. No license shall be issued to a person who, within five (5) years of the date of the application, has been convicted of a felony or a willful violation of any federal or state

law regarding the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

- G. No license shall be issued to any entity if a controlling interest in such entity is held by a person that would be ineligible for a license under the standards set forth in subsections D, E, or F above.
- H. No license shall be issued for any premises or for any business ineligible for a license under federal law or Minnesota law.

Subd. 9 License Period. The City Council may approve any application for license as provided herein for the period of the remainder of the then current calendar year or for the entire ensuing license year, which, for the purposes of this Chapter 580, shall be from February 1 to January 31. All applications including proposed license periods must be consistent with this section.

Subd. 10 Fees.

- A. Investigation Fee. Except as provided below, each applicant for a license shall pay the investigation fee listed in Chapter 1100 of the Code when the application is submitted to the City. An application for which an investigation fee is required will not be considered until the fee is paid in full. No investigation fee is required for temporary licenses.
- B. Payment of License Fee. The fee for each type of license available under this Chapter 580 is listed in Chapter 1100 of the Code. Each applicant shall pay, on or before the day the license is issued, the full, annual fee for the type of license issued unless either of the below sections apply:
 - 1. Partial License Years. Unless expressly provided herein to the contrary, the license fee for any partial license year shall be pro-rated and paid, in advance, on the basis of one-twelfth (1/12) of the total license fee for each calendar month, or part thereof, remaining in the then current license year.
 - 2. Option to Pay On-Sale Liquor License Fee in Installments. An applicant for an on-sale liquor license may elect to pay the license fee listed in Chapter 1100 for “Liquor, On-Sale” in two (2) equal installments, subject to the following conditions:
 - a. The first installment payment shall be paid, in advance, before the license is issued.
 - b. Together with the first installment payment, the applicant shall also pay the “Installment Option Fee” listed in Chapter 1100 or installment payments will not be allowed.
 - c. The second installment payment shall be paid on or before the close of business on July 1st of the then current license year. If July 1st is a Saturday or Sunday, payment must be made by the close of business on the last business day prior to July 1st. Failure to pay such installment payment on or before the date due shall constitute a violation of this Chapter. Further, no renewal license or new license shall be granted to a person that owes the City a past due installment payment or any fine

associated with a past due installment payment.

- d. The entire license fee shall be paid even if the license holder ceases operations before the second installment payment becomes due. As such, the obligation to pay the second installment payment may not be waived unless relief is granted pursuant to this Chapter 580.
- e. The installment payment option may only be elected for full license years and is not available for partial license years, limited licenses, or temporary licenses.

C. Refunds. The City Council, in its discretion, may refund a pro rata share of an annual license fee to a licensee, or to the licensee's estate, if:

- 1. The business ceases to operate because of destruction or damage; or
- 2. The licensee is an individual and the licensee dies.

Subd. 11 Issuance. If an application is approved and the required fee is paid (or the first installment payment is made, if applicable), the Mayor and the City Clerk shall, upon payment of the appropriate license fee, promptly issue a license in the form prescribed by the City and by the Commissioner. A license shall be valid only for the licensed premises described in the application for the license.

Subd. 12 Duplicate License. The City Clerk may issue a duplicate of an original license without action by the City Council if the licensee produces a sworn affidavit that the original license has been lost and pays the fee for issuance of a duplicate license as listed in Section 1100 of this Code. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 13 Transfer. No license may be transferred between persons or locations without prior approval of the City Council. If a controlling interest in any entity with a license is transferred, the transfer of the controlling interest shall be deemed to be a transfer of the license. The City Council may revoke any license transferred without its prior approval. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this Chapter 580 regarding a new license application shall apply.

580.05 Requirements and Restrictions Regarding Licensees.

Subd. 1 Posting. Each person holding a license shall post the license at the premises described in the license, except that a temporary license shall be posted at the premises where alcoholic beverages may be sold, as defined in the license. All licenses shall be posted in full view of the public.

Subd. 2 Hours and Days of Sale. Each licensee shall strictly comply with the hour and day limitations found in Minn. Stat. §340A.504 for each type of license held by the licensee. In addition, the following provisions apply to Sunday sales:

- A. On-Sale of Intoxicating Liquor. Except as provided in Subd. 2, B, below, the on-sale of intoxicating liquor on a Sunday requires a Sunday license issued pursuant to Code Section 580.06, Subd. 5.

- B. On-Sale Brewer Taproom. The holder of a brewer taproom license may open the taproom and conduct on-sale business on Sundays between the hours of 8:00 a.m. and 11:59 p.m. without the need for a separate Sunday license.
- C. Off-Sale Growlers. A small brewer may sell malt liquor in growlers at its licensed premises as allowed by Minn. Stat. Chapter 340A during the hours of 8:00 a.m. and 11:59 p.m. on Sundays without the need for a separate Sunday license.

Subd. 3 Hours of Business.

- A. No person or customer, other than the licensee or his or her bona fide employees, shall remain on any licensed premises more than thirty (30) minutes after closing hour. There shall be no consumption of any alcoholic beverage by any person, including the licensee and his or her bona fide employees, more than thirty (30) minutes after closing hour. It shall be the duty of the licensee to enforce compliance with this section at the licensed premises.
- B. Total evacuation of the licensed premises shall occur not later than one (1) hour after closing hour, unless prior notification is provided to the Carver County Sheriff's Department and approval is obtained therefrom. It shall be the duty of the licensee to enforce compliance with this section at the licensed premises.

Subd. 4 Sales to Intoxicated Persons Prohibited. No person shall sell 3.2 percent malt liquor, intoxicating liquor or wine to any person who is obviously or visibly in an intoxicated condition.

Subd. 5 Line of Sight Requirements.

- A. All licensed sales of any alcoholic beverage shall be made in full view of the public.
- B. For security purposes, the front door or entrance of each licensed premises shall contain an unobstructed clear glass window that shall provide a clear view of the interior of such licensed premises.
- C. Any room or rooms where any alcoholic beverage is sold shall be arranged such that an unobstructed view of any part of such room shall be visible to at least one (1) employee of the licensee.

Subd. 6 Responsibility of Licensee.

- A. Every licensee shall maintain sobriety and order at the licensed premises and all parking areas, outdoor areas or other property adjacent to the licensed premises owned or controlled by the licensee.
- B. The act of any employee on the licensed premises authorized to sell or serve any alcoholic beverage shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties equally with the employee.

Subd. 7 Employment of Felons Prohibited. No person who has been convicted of a felony shall serve or sell liquor in a retail intoxicating liquor establishment.

Subd. 8 Employment of Minors Prohibited. No person under the age of eighteen (18) years shall serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

Subd. 9 Removal of Alcoholic Beverages. No licensee shall permit any person to remove, and no person shall remove, from the space or building named in the on-sale license for which it was granted, any bottle or receptacle which contains any alcoholic beverage, which has been opened, or the seal broken, or the contents of which have been partially removed except a restaurant licensed to sell intoxicating liquor or wine at on-sale may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described herein is not an off-sale of intoxicating liquor and may be permitted without an additional license. Each licensee shall post, in a conspicuous location near each exit from the space or building named in the license for which it was granted, a sign advising the public of this prohibition. It shall be the duty of the licensee to enforce compliance with this section.

Subd. 10 Samples of Alcoholic Beverages. Samples of alcoholic beverages may be provided as allowed by Minn. Stat. 340A.510.

Subd. 11 Nudity at a Licensed Premises Prohibited. The City Council finds that it is in the best interests of the public health, safety and general welfare of residents of the City to prohibit the following:

- A. A licensee allowing a hostess, barmaid, waitress, waiter, bartender, independent contractor or any such other such person to perform services at the premises described in the licensee's license while the person is in a state of nudity.
- B. A licensee allowing any person to perform, whether by dancing, displaying lingerie or any other activities or entertainment services at the premises described in the licensee's license while the person is in a state of nudity.

Subd. 12 Gambling Prohibited. 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, or permit gambling, except as allowed by Minnesota law.

Subd. 13 Inspection.

- A. Any licensed premises may be inspected by a health officer at such time or times as is necessary or advisable to maintain clean and sanitary conditions.
- B. No licensee shall prevent any law enforcement officer from entering upon and inspecting the licensed premises regardless of whether or not the law enforcement officer has obtained a search and seizure warrant for such purpose. Such law enforcement officer shall be authorized to seize all alcoholic beverages found in such licensed premises for which the licensed premises do not have a license.

Subd. 14 Exclusive Stores. No exclusive store shall sell food for on-premises consumption unless the City has specifically authorized such consumption in the license for the premises. An exclusive store may offer live or recorded entertainment provided it complies with all other provisions of the Waconia City Code in regard to such entertainment.

Subd. 15 Requirements Applicable to Outdoor Areas. If licensed premises includes an outdoor area adjacent to a structure as allowed by Section 580.04, Subd. 2, C, the licensee of such premises shall:

- A. Assign an employee to supervise the outdoor area at all times;

- B. Not use any device in the outdoor area after 10:00 p.m. that is designed, in whole or in part, to produce, reproduce or amplify sound including, but not limited to, loudspeakers, amplifiers, radio, televisions, or musical instruments (provided, however, the personal use of cellular phones, radio communication devices and devices solely emitting sound through headphones shall not be prohibited);
- C. Not serve any alcoholic beverages in the outdoor area after 10:00 p.m., provided, however, this restriction shall not apply to any licensed premises that is a restaurant or a hotel and shall not be construed to prohibit the consumption of alcoholic beverages in the outdoor area after 9:00 p.m.;
- D. Remove any person from the outdoor premises that becomes unruly or noisy;
- E. Maintain at least one (1) waste receptacle in the outdoor area;
- F. Maintain at least one (1) fire safe cigarette disposal receptacle in the outdoor area;
- G. Pick up trash and litter generated by the operation of the outdoor area within a reasonable distance from the outdoor area; and
- H. At all times maintain the outdoor area in full compliance with the requirements of Section 580.04, Subd. 2, C.

Subd. 16 Smoking in Outdoor Areas. If the licensed premises includes an outdoor area adjacent to a structure as allowed by Section 580.04, Subd. 2, C, the licensee of such premises may allow or prohibit smoking in the outdoor area (or divide the outdoor area into smoking and no smoking areas in such proportions as the licensee desires) subject to the following limitations and requirements:

- A. Smoking shall be prohibited in those portions of the outdoor area, if any, that are considered “indoor area” under the Clean Indoor Air Act.
- B. If the licensed premises is a restaurant or hotel, not less than twenty-five percent (25%) of the seats in the outdoor area shall be designated and signed by the licensee as a no smoking area, which seats shall be contiguous. The licensee shall treat such no smoking area as an area where smoking is not allowed under the Clean Indoor Air Act and shall take the actions set forth in the Clean Indoor Air Act to prevent smoking in such area.

Subd. 17 Mandatory License Training Seminars. Except as provided below, each licensee holding a license must either attend, or have a representative of licensee attend, the mandatory license training seminar offered by the City (in conjunction with the Carver County Sheriff’s Department) during the year or partial year that the license is in effect. Any representative attending on behalf of a licensee must hold a position of responsibility in either the ownership or management of the licensee. Failure to attend a required training seminar without reasonable justification, as determined by the City Council, shall result in the imposition of the penalties set forth in Section 580.08 below. If a person just holds a temporary license, the person shall not be required to attend the license training seminar.

580.06 Number and Types of Licenses Issued by the City.

Subd 1 Number of Licenses. Expect as otherwise provided in this Section 580.06 or Minn. Stat. Chapter 340A, there shall be no limit on the number of licenses that may be issued by the City Council.

Under no circumstance, however, shall the City Council issue more than 12 days of temporary licenses to any one applicant in one calendar year.

Subd. 2 Off-Sale Licenses.

- A. Exclusive Liquor Store. The City Council may issue an off-sale intoxicating liquor license to an exclusive liquor store as allowed by Minn. State §340A.405.
- B. Off-Sale 3.2 Percent Malt Liquor. The City Council may issue an off-sale 3.2 percent malt liquor license as allowed by Minn. Stat. §340A.403.
- C. Small Brewer. The City Council may issue an off-sale malt liquor license to a small brewer as allowed by Minn. Stat. §§340A.28 and 340A.285.
- D. Brew Pub. The City Council may issue an off-sale malt liquor license to a brew pub as allowed by Minn. Stat. §340A.24.
- E. Microdistillery. The City Council may issue an off-sale intoxicating liquor license to a microdistillery as allowed by Minn. Stat. §340A.22.

Subd. 3 On-Sale Licenses.

- A. Intoxicating Liquor. The City Council may issue intoxicating liquor licenses as allowed by Minn. Stat. §340A.404.
- B. Wine. The City Council may issue an on-sale license to sell wine as allowed by Minn. Stat. §340A.404. The holder of an on-sale wine license issued pursuant to this section who also holds a license to sell 3.2 percent malt liquors on-sale may also sell intoxicating malt liquors on-sale without an additional license.
- C. 3.2 Percent Malt Liquor. The City Council may issue on-sale 3.2 percent malt liquor licenses as allowed by Minn. Stat. Chapter 340A.403.
- D. Brew Pub. The City Council may issue a brew pub license as allowed by Minn. Stat. §340A.24.
- E. Brewer Taproom. The City Council may issue a brewer taproom license as allowed by Minn. Stat. §340A.26.
- F. Microdistillery Cocktail Room. The City Council may issue a microdistillery cocktail room license as allowed by Minn. Stat. §340A.22.
- G. Culinary Classes. The City Council may issue a limited on-sale intoxicating liquor license to a business establishment for culinary classes as allowed by Minn. Stat. §340A.4041.

Subd. 4 Temporary Licenses.

- A. Social Event Sponsored by a Club, Charity or Nonprofit. The City Council may issue a temporary on-sale license to sell intoxicating liquor to a club or to a charitable, religious, or nonprofit organization in connection with a social event sponsored by such organization as allowed by Minn. Stat. §340A.404.

- B. 3.2 Percent Malt Liquor Served by a Club, Charity or Nonprofit. The City Council may issue a temporary license to a club or to a charitable, religious, or non-profit organization for the on-sale of 3.2 percent malt liquor as allowed by Minn. Stat. §340A.403.
- C. Social Event Sponsored by a Small Brewer or Microdistillery. The City Council may issue a temporary on-sale intoxicating liquor license to a small brewer or microdistillery in connection with a social event sponsored by such entity as allowed by Minn. Stat. §340A.404.
- D. Farm Winery at a County Fair. The City Council may issue a temporary license to a farm winery for the on-sale of intoxicating liquor at a county fair as allowed by Minn. Stat. §340A.404.
- E. Wine Festival. The City Council may issue a temporary license for the on-sale and off-sale of wine at a festival as allowed by Minn. Stat. 340A.4175.
- F. Wine Auction. The City Council may issue a temporary license for the off-sale of wine at an auction as allowed by Minn. Stat. §340A.405.

Subd. 5 Sunday Licenses. The City Council may issue licenses to sell intoxicating liquor on-sale on Sundays to a hotel, restaurant, club or bowling center as allowed by Minn. Stat. §340A.504, Subd. 3.

580.07 3.2 Bottle Clubs.

A “bottle club” is a club that is not otherwise licensed for the sale of intoxicating liquor that permits its members to bring and keep a personal supply of liquor in lockers assigned to such members. No business establishment or club that does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner.

580.08 Presumptive Civil Penalties.

Subd. 1 Purpose. This section sets forth presumptive civil penalties for certain violations of this Chapter 580. Although the presumptive penalties are presumed to be appropriate for every case, the City Council may deviate and impose a different civil penalty in any individual case where the City Council finds substantial reasons make it appropriate to do so (e.g., a licensee’s efforts to cooperate with the City or the Commissioner to prevent further sales of alcohol to persons under twenty-one (21) years of age at the licensed premises). When deviating from the presumptive civil penalties, the City Council shall provide written findings that support the penalty imposed. Nothing herein shall be interpreted as preventing the City from also prosecuting any violation of this Chapter 580 as a criminal violation pursuant to Chapter 102 of the Code.

Subd. 2 Presumptive Civil Penalties for Violations. The presumptive penalties are as follows:

<i>Type I Violations</i>	<i>Penalty</i>
<p>Commission of a felony related to the licensed activity</p> <p>Sale of alcoholic beverages while license is under suspension</p> <p>Sale of intoxicating liquor where only license is for 3.2 percent malt liquor</p>	<p>License revoked</p>
<i>Type II Violations</i>	<i>Penalty</i>
<p><i>Failure to comply with Financial Responsibility</i></p>	<p>License suspended for three (3) days, unless the next penalty applies</p> <p>License revoked if a second Type II Violation occurs within twenty-four (24) months of a previous Type II Violation.</p>
<i>Type III Violations</i>	<i>Penalty</i>
<p><i>Refusal to allow City inspectors or the Carver County Sheriff's Department admission to inspect the premises</i></p>	<p>License suspended for five (5) days, unless the next penalty applies</p> <p>License suspended for fifteen (15) days if a second Type III Violation occurs within twenty-four (24) months of a previous Type III Violation, unless the next penalty applies</p> <p>License revoked if three Type III Violations occur within twenty-four (24) months of each other.</p>
<i>Type IV Violations</i>	<i>Penalty</i>
<p>Sale of alcoholic beverages to a person under twenty-one (21) years of age</p> <p>Sale of alcoholic beverages to obviously intoxicated person</p> <p>After hours sale of alcoholic beverages</p> <p>After hours display or consumption of alcoholic beverages</p> <p>Illegal gambling on premises</p> <p>Consumption of an alcoholic beverage by a patron of a licensee outside of the compact and contiguous premises</p>	<p>\$200.00 penalty, unless the next penalty applies</p> <p>\$500.00 penalty if a second Type IV Violation occurs within twenty-four (24) months of a previous Type IV Violation, unless the next penalty applies</p> <p>License suspended for three (3) days if three Type IV Violations occur within twenty-four (24) months of each other, unless the next penalty applies</p> <p>License revoked if four Type IV Violations occur within twenty-four (24) months of each</p>

described in the licensee's license Failure to attend mandatory license training seminars	other.
<i>Type V Violations</i>	<i>Penalty</i>
Failure to pay a license fee installment payment on or before the date it is due	Installment payments permanently prohibited

Subd. 3 Payment of Monetary Penalties. Any monetary penalty imposed shall be due and payable, in full, on the tenth (10th) day after it is imposed by the City Council. Failure to pay any monetary penalty on or before the date it is due shall constitute another violation of the same type.

580.09 Right to a Hearing.

Any applicant who has been denied the issuance of a license or any licensee upon whom a civil penalty has been imposed may, upon written request to the City Clerk promptly made after the denial or imposition has occurred, request a hearing before the City Council to present evidence and to appeal the decision. Further, no suspension or revocation of a license shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minn. Stat. §§14.57 to 14.70 of the Administrative Procedure Act, as amended.

12/01/95
10/20/97 Ord. 481 Section 580.02, Add Subd. 6
05/03/99 Ord. 497 Amend Chapter 580 in Entirety
06/07/99 Ord. 500 Section 580.05, Subd. 1
02/20/01 Ord. 527 Add Section 580.05, Subd. 11
01/03/04 Ord. 504 Section 580.02, Delete Subd. 1b
05/15/05 Ord. 562 Section 580.01 j; 580.03, 3; 580.04, 6
06/19/2006 Ord. 580 Add 580.03, Subd. 4

12/10/07 Ord. 593, Section 580.04
01/05/09 Ord. 613, Allow On-Sale Intoxicating Installment Payments
11/30/09 Ord. 624, Sect. 580.04, Subd. 1 Hours of Sale
08/01/2011 Ord. 651 adding farm winery
01/07/13 Ord 667, Amend Chapter 580 in Entirety
12/09/13 Ord. 674, Amend 580.04 C
07/21/2014 Ord. 686, Amend 580.06 Subd 8, 11, 12

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