

# CHAPTER 5. ALCOHOLIC BEVERAGES

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## 📖 Section 500 - General Provisions and Definitions

**500.01 Citation.** This chapter of the Hermantown City Code may be cited as the “Alcoholic Beverage Code” and may be referred to in this chapter as “this chapter.”

**500.02 Application of Regulations.** Where the conditions imposed by any provision of this chapter are either more or less restrictive than comparable conditions imposed by any other regulations, the regulations which impose the higher standard or greater requirements shall govern.

**500.03 Definitions.** For purposes of this chapter, the following terms have the meanings given them in this section.

**500.03.1.** “Alcoholic beverage” shall mean any beverage containing more than 0.5% alcohol by volume.

**500.03.2.** “Applicant” means:

**500.03.2.1.** If the Applicant is a natural person, then such person and every manager of other person in charge of the business conducted by the Applicant is/are the Applicant and are required to be licensed.

**500.03.2.2.** If the Applicant is a partnership, then each and every general and limited partner of the partnership and every manager or other person in charge of the business to be conducted by Applicant is/are the Applicant and are required to be licensed.

**500.03.2.3.** If the Applicant is a corporation, limited liability company or other organization then each and every person who owns or controls any interest in excess of five percent (5%) in such entity, each and every officer, director, governor and manager of such entity and every person who will be in charge of the business to be conducted by Applicant is/are the Applicant and are required to be licensed.

(Am. Ord. 2014-12, passed 11-3-2014)

**500.03.3.** “Charitable organization” shall mean an organization which engages in solicitation of funds, on a permanent basis, for any charitable, benevolent, philanthropic, patriotic, eleemosynary or similar purposes.

**500.03.4.** “Chemical tests” shall mean any method by which the presence of alcohol in a human body may be determined including, without limitation, breath tests, urine tests and blood tests.

**500.03.5.** “Club” shall mean any corporation duly 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 veteran's organization which:

**500.03.5.1.** Has more than 30 members;

(Am. Ord. 2002-06, passed 8-5-02)

**500.03.5.2.** Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and

**500.03.5.3.** Shall be 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.

**500.03.6.** “Hotel” shall mean an establishment where food and lodging are regularly furnished to transients and which has:

**500.06.5.1.** A resident proprietor or manager;

**500.06.5.2.** A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and

**500.06.5.3.** At least ten guest rooms.

**500.03.7.** “Intoxicating liquor” shall mean ethyl alcohol, distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2% of alcohol by weight.

**500.03.8.** “Malt Liquor.”

**500.03.8.1.** “Malt liquor” shall mean any beer, ale or other beverage made from malt by fermentation and containing not less than 0.5% alcohol by volume.

**500.03.8.2.** “3.2 Malt liquor” shall mean any malt liquor that does not contain more than 3.2% alcohol by weight.

**500.03.8.3.** “Intoxicating malt liquor” shall mean any malt liquor that contains more than 3.2% alcohol by weight.

(Am. Ord. 2003-07, passed 7-7-03)

**500.03.9.** “Minor” shall mean any person under the age of 21 years.

**500.03.10.** “Non-profit organization” shall mean a corporation under M.S. Chapters 317 or 317A, as they may be amended from time to time, which shall be neither designed for nor results in any private pecuniary gain, either directly or indirectly, for any of its members.

**500.03.11.** “Off-sale” shall mean the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

**500.03.12.** “On-sale” shall mean the sale of alcoholic beverages for consumption on the licensed premises only.

**500.03.13.** “Public place” shall mean public sidewalks, public streets, public parks, buildings owned by governmental units, property owned by governmental units, buildings and parking lots open to the public and the grounds, buildings, drives and parking areas of open air, drive-in theaters.

**500.03.14.** “Religious organization” shall mean an organization which shall be affiliated with a national or regional religious denomination and which shall maintain an established church building and congregation.

**500.03.15.** “Restaurant” shall mean any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals and for seating not less than 30 guests at one time and where, in consideration of payment therefor, meals shall be regularly served at tables to the general public and which shall employ an

adequate staff to provide usual and suitable service to its guests and a principal part of the business of which shall be the serving of food. One or more bowling alleys may be included in the premises of a “restaurant” if table service shall be available throughout the licensed premises.

**500.03.16.** “Wine” shall mean 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 7% nor more than 24% alcohol by volume for non-industrial use.

## **Section 510 - Licenses**

**510.01 On-Sale/Off-Sale; 3.2 Malt Liquor.** The City Council shall be authorized to issue on-sale and off-sale 3.2 malt liquor licenses pursuant to M.S. Chapter 340A, as it may be amended from time to time. The City Council may issue a combination on-sale and off-sale 3.2 malt liquor license.

**510.02 On-Sale/Off-Sale; Intoxicating.** The City Council shall be authorized to issue on-sale and off-sale intoxicating liquor licenses pursuant to M.S. Chapter 340A, as it may be amended from time to time. On-sale intoxicating liquor licenses may only be issued to clubs, bowling centers or restaurants.

(Am. Ord. 2002-06, passed 8-5-02; Am. Ord. 2002-10, passed 1-6-03; Am. Ord. 2005-06, passed 3-7-05; Am. Ord. 2007-04, passed 5-21-07) (Am. Ord. 2015-07, passed 7-20-15)

**510.03 On-Sale Wine.** The City Council shall be authorized to issue on-sale wine licenses to restaurants pursuant to M.S. Chapter 340A.404, Subd. 5, as it may be amended from time to time. The licenses shall be in addition to the number of on-sale intoxicating liquor licenses issued pursuant to 510.02. An on-sale wine license shall permit the sale of wine of up to 14% alcohol by volume for consumption with the sale of food in the restaurant that was issued the license.

**510.03.1. On-Sale/Intoxicating Malt Liquor Allowed in Certain Circumstances.** A holder of an on-sale wine license issued pursuant to this section, who is also licensed to sell 3.2 Malt Liquor at on-sale pursuant to 510.01 and whose gross receipts are at least 60% attributable to the sale of food, may sell intoxicating malt liquor at on-sale without an additional license.

(Am. Ord. 2003-7, passed 7-7-03)

**510.04 Sunday License.** The City Council shall be authorized to issue a Sunday license to a restaurant, club, bowling center or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license pursuant to M.S. Section 340A.504, Subd.3, as it may be amended from time to time. The Sunday license shall permit the sale of intoxicating liquor for consumption on the licensed premises in conjunction with the sale of food in the restaurant, club, bowling center or hotel that was issued the license.

**510.05 Temporary 3.2 Malt Liquor License.** Temporary 3.2 malt liquor licenses may be issued pursuant to Section 560 of this chapter.

**510.05A Club License.** Club licenses may be issued pursuant to Section [580](#) of this chapter. The number of club licenses issued by the City shall not exceed two.

(Am. Ord. 2002-06, passed 8-5-02)

**510.05B Temporary On-Sale Intoxicating Liquor License.**

**510.05B.1. License Authorized.** The City Council may authorize a temporary on-sale liquor license in connection with a social event sponsored by the licensee. The temporary on-sale intoxicating liquor license shall permit the sale and consumption of intoxicating liquor on the licensed premises specifically identified on the temporary on-sale intoxicating liquor license on the days and during the times specified in the temporary on-sale intoxicating liquor license. The provisions of Sections 530.01, 530.03, 530.04, 530.05, 530.06, 530.07, 530.08, 530.09, 530.10, 530.14, 530.15, 530.17, 530.18, 530.19, 530.20, 530.25, 530.26, 540 and 570 shall apply to any temporary on-sale intoxicating liquor license issued pursuant to this Section.

**510.05B.2. Applicant.** The license may only be issued to a club, charitable organization, religious organization or other nonprofit organization in existence for at least three years.

**500.05B.3. Terms and Conditions of License**

**510.05B.3.1.** A temporary license may only be issued for such period of time as determined by the City Council, not to exceed four consecutive days. Temporary on-sale licenses to any one organization or for one location shall not exceed more than three four-day, four three-day, six two-day or 12 one-day licenses, in any combination not to exceed 12 days per year. No more than one license shall be issued to any one organization or for any one location within any 30 day period.

**510.05B.3.2.** The city may issue a temporary on-sale liquor license for premises other than premises the licensee owns or permanently occupies. Prior to such issuance, the licensee must provide written authorization from the owner of the premises.

**510.05B.3.3.** If the licensed premises is located on property owned by a governmental entity, the licensee must make a Minnesota-produced beer available for purchase at each location where beer is sold on the licensed premises.

**510.05B.3.4.** The application for a temporary on-sale liquor license shall be accompanied by a fee in the amount set from time to time by the City Council of the City to cover the costs and expenses incurred by the City in connection with the consideration of the application and a diagram of the proposed licensed premises. The accompanying diagram shall indicate the security measures; toilet facilities; lighting and electrical equipment proposed for the licensed premises.

**510.05B.3.5.** Adequate provisions for entrances and exits and access by fire, police and other emergency personnel or vehicles to the licensed premises shall be made.

**510.05B.3.6.** The licensee shall provide the City with a deposit in the amount set from time to time by the City Council of the City to ensure that licensee will clean up the licensed premises.

**510.05B.3.7.** The licensee shall provide security personnel as determined by the Police Chief.

**510.05B.3.8.** In lieu of obtaining a temporary on-sale intoxicating liquor license pursuant to this Section 510.05B, a club or charitable organization that is a sponsor of a community event may apply for permission for the sale and consumption of intoxicating liquor on a designated licensed premises by contracting the holder of a full-year on-sale intoxicating liquor license that extends to catering services. All of the provisions of this Section 510.05B shall be applicable to the sale and consumption of intoxicating liquor through or by a third party holding an on-sale intoxicating liquor caterer's license.

(Am. Ord. 2017-04, passed 6-5-17)

#### **510.05C Small Brewer Off-Sale.**

**510.05C.1. License Authorized.** Notwithstanding any provision of this Code to the contrary, the Council may issue a small brewer off-sale license for the sale of malt liquor produced and packaged on the licensed premises.

**510.05C.2. Applicant.** The applicant for a license under this Section must be a brewer licensed under Minnesota Statute 340A.301, Subdivision 6(c),(i), or (j) in order to be licensed for the off-sale of malt liquor produced and packaged on the licensed premises.

#### **510.05C.3. Terms and Conditions of License.**

**510.05C.3.1.** No license is valid until approved by the Commissioner.

**510.05C.3.2.** No off-sale of malt liquor may be made by a small brewer licensee before 8:00 a.m. or after 10:00 p.m. on Monday through Sunday, nor on Thanksgiving Day, Christmas Day, or after 8:00 p.m. on Christmas Eve.

**510.05C.3.3.** The malt liquor shall be packaged in sixty-four ounce containers commonly known as "growlers" or in seven hundred fifty (750) milliliter bottles and bear a twist-type closure, cork, stopper or plug.

**510.05C.3.4.** The malt liquor sold off-sale must be removed from the licensed premises before 10:00 p.m.

**510.05C.3.5.** At the time of sale, the “growler” or 750 milliliter bottle must be sealed by a paper of adhesive band strip or sleeve that is applied over the top of the twist type closure, cork, stopper or plug in such a manner that the seal must be broken in order to open the container and the adhesive band or strip or sleeve shall bear the name and address of the brewer.

**510.05C.3.6.** The “growlers” or 750 milliliter bottles shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with applicable Minnesota law, rules and regulation.

**510.05C.3.7.** A brewer’s total retail sales at on- or off-sale under this Section 510.05C may not exceed 3,500 barrels per year and off-sales under this Section 510.05C may not exceed 500 barrels per year.

**510.05C.3.8.** All other provisions of this chapter, and all other applicable laws, statutes, ordinances, rules and regulations shall be applicable to licenses issued pursuant to this Section 510.05C and the licensees of such licenses unless inconsistent with the provisions of this section.

**510.05C.4. Fees.** The annual license fee for a license to be issued pursuant to this Section 510.05C, which includes the authorization for Sunday sales, shall be as established from time to time by a resolution of the City Council.

**510.05C.4. Other Licenses.** A brewer licensed under this Section may hold or have an interest in a retail on-sale license issued pursuant to Section 510.05D of this Code unless the brewer licensed under this Section was licensed as a brewer under Minnesota Statutes 340A.301, Subd. 6, clause (d).

#### **510.05D Brewer Taprooms.**

**510.05D.1. License Authorized.** Notwithstanding any provision of this Code to the contrary, the Council may issue a brewer taproom license for the on sale of malt liquor produced on the licensed premises.

**510.05D.2. Applicant.** The applicant for a license under this Section must be a brewer licensed under Minnesota Statute Section 340A.301, Subd. 6(c), (i), or (j).

#### **510.5D.3. Terms and Conditions of License.**

**510.05D.3.1.** No license is valid until approved by the Commissioner.

**510.05D.3.2.** A brewer may only hold one (1) brewer taproom license under this Section 510.05D and may not have an ownership interest in a brewery licensed under Minnesota Statutes 340A.301, Subd. 6, clause (d).

**510.05D.3.3.** The only alcoholic beverage that may be sold or consumed on the premises of the holder of a brewer taproom license will be the malt liquor produced by the brewer.

**510.05D.3.4.** All other provisions of this chapter, and all other applicable laws, statutes, ordinances, rules and regulations shall be applicable to licenses issued pursuant to this Section 510.05D and the licenses of such licenses unless inconsistent with the provisions of this section.

**510.05D.3.5.** Nothing in this Section 510.05D precludes the holder of a brewer taproom license from also holding a license to operate a restaurant on the premises of the brewery.

**510.05D.4. Fees.** The annual license fee for a license issued pursuant to this Section 510.05D, which includes the authorization for Sunday sales, shall be as established from time to time by a resolution of the City Council.

(Ord. 2007-03, passed 4-16-07) (Am. Ord. 2015-05, passed 6-15-15)

**510.06 License Duration.** Except as otherwise provided in this chapter all licenses shall be issued for a period of one year; provided that for the purpose of coordinating the time of expiration of licenses issued pursuant to this chapter, the licenses may be issued for a shorter time, in which case the fees shall not be prorated or refunded. Licenses issued pursuant to this chapter shall expire on June 30 of each year.

**510.07 Extended Hour License.** A licensee must obtain a license from the Commissioner of Public Safety pursuant to state law to engage in the sales of alcoholic beverages after 1:00 a.m.

(Ord. 2007-04, passed 5-21-07)

## **Section 520 - License Fees**

**520.01 On-Sale/Off-Sale; 3.2 Malt Liquor.** The license fees for on-sale/off-sale, 3.2 malt liquor, on-sale/off-sale; intoxicating liquor, on-sale wine, Sunday license, dancing permit and club licenses shall be as set by the Fee Schedule, as it may be amended from time to time.

(Am. Ord. 2008-11, passed 12-15-08)

**520.02 Change in Fees.** The City Council may from time to time by resolution or ordinance and in accordance with state law modify the fees for licenses issued pursuant to this Chapter 5. No license shall be issued under this Chapter 5 until the appropriate license fee has been paid in full.

(Am. Ord. 2003-07, passed 7-7-03; Am Ord. 2012-01 passed 1-23-12)

## **Section 530 - Licensing Procedures and Requirements**

**530.01 Application.** Application forms shall be prepared and furnished by the City Clerk. No application shall be considered until the applicant shall have filed with the City Clerk a written verified application with all questions fully answered.



## **530.02 License Issuance, Transfer and Renewal.**

**530.02.1.** The City Clerk shall not issue any license under this chapter unless directed to do so by resolution or motion duly adopted by the City Council. Any resolution granting a license may be conditioned on payment of taxes or any other condition the City Council shall deem appropriate. The City Clerk shall not issue any license until all the conditions shall be met.

**530.02.2.** A background check is required to be made pursuant to Minnesota Statutes 340A.402 and 299C.72 as they may be amended from time to time, with respect to the Applicant (as defined in Section 500.03.2) for a license under this Section 530. An application for a license under this Section 530 is not complete until and unless the Applicant (as defined in Section 500.03.2), including every manager or other person in charge, shall execute and deliver a consent authorizing a background check. The background check on an Applicant (as defined in Section 500.03.2), including every manager or other person in charge, for a license under this Section 530 must be completed before the City Council considers such application. A Minnesota only background check will be performed on every manager or person in charge.

(Am. Ord. 2008-11, passed 12-15-08; Am. Ord. 2009-09, passed 10-19-09) (Am. Ord. 2014-12, passed 11-3-2014)

## **530.03 License Issuance; Corporations.**

**530.03.1.** Alcoholic beverage licenses may be issued to any corporation authorized to do business in the state if an officer or a managing agent of the corporation shall be a resident of Minnesota residing within 50 miles of the Hermantown City Hall.

**530.03.2.** No corporation shall be granted a license to sell alcoholic beverages if any of its officers, directors, shareholders, local managers or local managing agents have been convicted within five years prior to the application for the license for violation of any law relating to the manufacture, sale, distribution or possession of alcoholic beverages, or have had an interest in a license to sell alcoholic beverages which was revoked within the last five-year period for violation of any such law, or for cause, and unless the officers, directors, shareholders, local managers and local managing agents shall be of good moral character and repute. This section shall not apply to corporations whose stock is publicly held and listed and traded by the public on a recognized stock exchange, except with respect to those provisions dealing with local managers and local managing agents.

**530.03.3.** A corporation shall state in its application for an alcoholic beverage license the names of its shareholders, directors, offices, local managers and local managing agents. The transfer, sale, pledge or assignment of the record or equitable ownership of any stock of a corporate license holder to new or different shareholders, or the election or appointment of any new or different directors, officers, local managers or local managing agents by a corporate license holder shall be deemed a transfer of all alcoholic beverage licenses held by the corporation and, in such case, the provisions of 530.10, shall be applicable. The failure of any corporate license holder to comply with the provisions of this section shall be grounds for the revocation of all alcoholic beverage licenses held by the corporation.

**530.04 License Issuance; Prohibited to Certain Persons.** No licenses required by this chapter shall be issued to any person not of good moral character and repute; nor to any person under 21 years of age; nor to any person who shall be convicted of any willful violation of any law of the United States, this state or any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages within five years of a license application, nor to any person whose license under this chapter or otherwise shall be revoked for any willful violation of any such laws or ordinances or for cause within five years of a license application nor to any person who at the time of any such violation owned any interest, whether as an owner of any capital stock of a corporate licensee, or who was a partner or otherwise, in the premises or in the business conducted thereon, of a licensee that violated any such laws or whose license was revoked for any such violation, nor to a person who has a direct or indirect interest in a manufacturer, brewer or wholesaler.

(Am. Ord. 2008-09, passed 7-21-08)

**530.05 Regulatory Compliance.** No license shall be issued unless the applicant shall be found to be in compliance with all applicable statutes and regulations of the state, in particular, but not limited to M.S. Chapter 340A, as it may be amended from time to time, and the rules and regulations of the Minnesota Department of Public Safety, and with the provisions of this chapter.

**530.06 Terms and Conditions of On-Sale Licenses.** On-sale intoxicating and 3.2 malt liquor licenses shall be issued subject to the following terms and conditions:

**530.06.1.** No on-sale license shall be granted to any applicant or for any premises if, in the judgment of the City Council, the operation of the proposed establishment shall be likely to become a public nuisance or detrimental to public morals.

**530.06.2.** No dancing shall be conducted on the licensed premises between the hours of 2:00 a.m. and 8:00 a.m. on any day.

(Am. Ord. 2003-11, passed 10-23-03)

**530.07 Limitation on Licenses to Same Licensee.**

**530.07.1.** No more than one off-sale intoxicating liquor license shall be directly or indirectly issued to any one person, partnership or corporation or for any one place or location in the City.

**530.07.2.** No person, partnership or corporation shall have or possess a direct or indirect interest in more than one off-sale intoxicating liquor license in the City.

**530.07.3.** No person, partnership or corporation shall be granted or shall have or possess a direct or indirect interest in more than two on-sale intoxicating liquor licenses in the City.

**530.07.4.** The term “interest” as used in this section shall include any pecuniary interest in the ownership, operation, management or profits of a retail liquor establishment but shall not

include loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to the establishment; or an interest in a corporation owning or operating a hotel but having at least 150 rental units holding a liquor license in conjunction therewith.

**530.07.5.** A person, partnership or a corporation which receives moneys from time to time directly or indirectly from a licensee in the absence of a bona fide consideration therefor, and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in the retail license.

**530.07.6.** In determining whether an “interest” exists, the transactions shall have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this section shall be considered.

**530.07.7.** Upon conviction for violation of this section, the City Council may revoke all licenses in which the convicted person, partnership or corporation has an interest.

#### **530.08 Proof of Financial Responsibility.**

**530.08.1.** No license shall be granted unless the applicant shall provide proof of financial responsibility with regard to liability imposed by M.S. Section 340A.801, as it may be amended from time to time, with the application. Financial responsibility shall be demonstrated by filing one of the following with the application:

**530.08.1.1.** A certificate that there shall be in effect an insurance policy or pool providing coverage of at least:

**530.08.1.1.1.** Fifty thousand dollars of coverage because of bodily injury to any one person in any one occurrence, and \$100,000 of coverage because of bodily injury to two or more persons in any one occurrence and \$10,000 of coverage because of injury to or destruction of property of others in any one occurrence;

**530.08.1.1.2.** Fifty thousand dollars of coverage for loss of means of support of any one person in any one occurrence, and \$100,000 of coverage for loss of means of support of two or more persons in any one occurrence; and

**530.08.1.1.3.** That specifies that the insurance coverage shall not be materially altered, canceled or not renewed by either the insured or insurer without 60 days prior notice to the City of the cancellation, material alteration or non-renewal or cancelled for non-payment of a premium without 10 days prior notice to the City of the cancellation. In the event of a policy cancellation, the insurer will send notice to the City at the same time that a cancellation request is received from or a notice is sent to the insured.

(Am. Ord. 2012-08, passed 11-5-12)

**530.08.1.1.4.** The insurance required by 530.08.1.1.1 may be provided by an insurer in combination with other insurance coverage; and/or

**530.08.1.1.5.** An annual aggregate policy limit for the insurance required by this 530.08.1.1.1 of not less than \$300,000 per policy year shall be included in the policy provisions.

**530.08.1.2.** A bond of a surety company acceptable to the City Council with minimum coverage as provided in 530.08.1.1; or

**530.08.2.** A certificate of the State Treasurer that the licensee has deposited with the State Treasurer \$100,000 in cash or securities which shall legally be purchased by savings banks or for trust funds having a market value of \$100,000.

### **530.09 Payment of Taxes, Assessments and Other Charges.**

**530.09.1.** No license shall be granted under this section for the operation on any premises, on which real estate taxes, assessments or other financial claims of the City shall be delinquent and unpaid.

**530.09.2.** In the event the applicant is the owner, either in fee or under a contract for deed of the real estate where the licensed business is to be located and there are delinquent real estate taxes and/or assessments and/or other financial claims of the City against the real estate, the City Council may nevertheless, by affirmative vote of three members of the City Council, authorize and direct the issuance of the license, but only if the applicant shall submit a certified copy of an agreement under any laws of the state for the payment of the delinquent taxes and assessments and other financial claims.

**530.09.3.** In the event the applicant does not own the real estate where the licensed business is to be located and there are delinquent real estate taxes, assessments and/or other financial claims of the City against the real estate, the City Council, may nevertheless, by affirmative vote of three members of the City Council, authorize and direct the issuance of the license, but only if the applicant shall submit evidence to the City Council that the owner of the real estate and the applicant having entered into a written rental agreement or lease providing that rent paid shall first be applied to the delinquent real estate taxes, assessments and other financial claims.

### **530.10 Assignments and Transfers.**

**530.10.1.** No license issued under the provisions of this chapter shall be assigned or transferred by the licensee, nor shall a change of address in the location of the licensed premises be permitted unless a resolution authorizing the assignment, transfer or change of address shall have been first duly approved by resolution of the City Council.

**530.10.2.** Application for an assignment or transfer of a license or for the change of address in the location of the licensed premises shall be made to the City Clerk by the holder of the license to be transferred or assigned or whose licensed premises address is to be changed on an application form to be prepared and furnished by the City Clerk. No application shall be

considered until the applicant shall have filed with the City Clerk a written application with all questions fully answered. The applications shall be accompanied by a fee as set by the Fee Schedule, as it may be amended from time to time. The fees shall be to cover the necessary costs of investigation and shall not be refunded if the application is withdrawn, or the assignment, transfer or change of address shall not be granted by the City Council.

**530.10.3.** A background check is required to be made pursuant to Minnesota Statutes 340A.402 and 299C.72, as they may be amended from time to time, with respect to the Applicant (as defined in Section 500.03.2) to whom a license is proposed to be assigned or transferred. An application for a license under this Section 530 is not completed until and unless the Applicant (as defined in Section 500.03.2), including every manager or other person in charge, shall execute and deliver a consent authorizing a background check. The background check on an Applicant (as defined in Section 500.03.2), including every manager or other person in charge, for a license under this Section 530 must be completed before the City Council considers such application. A Minnesota only background check will be performed on every manager or person in charge.

(Am. Ord. 2009-09, passed 10-19-09) (Am. Ord. 2014-12, passed 11-3-2014)

**530.10.4.** No licenses shall be transferred or assigned if the individual person or any individual owner of any entity to which the license is proposed to be assigned has been previously convicted of a misdemeanor, gross misdemeanor or felony, provided, however, that the City Council may, in its sole discretion, grant a waiver of the prohibition if it determines that the conviction shall not bear a substantial relationship to the character or ability of the person to conduct a liquor business consistent with the provisions of this chapter and all other applicable laws. No application for a transfer or assignment of a license issued under this chapter or change of address in the location of the licensed premises shall be approved unless the person, corporation, partnership or other entity shall be found to be in compliance with all applicable statutes and regulations of the state, in particular, but not limited to M.S. Chapter 340A, as it may be amended from time to time, the rules and regulations of the Minnesota Department of Public Safety and with the provisions of this chapter. After the approval of the transfer or assignment of a license issued under this section, all of the provisions of this chapter and all other applicable laws and regulations shall apply to the license and the new licensee.

(Am. Ord. 2008-11, passed 12-15-08)

### **530.11 Closing Time; Employee Name Tags.**

**530.11.1.** All customers and “non-working” employees shall vacate the premises for which an on-sale liquor license has been issued by 1:30 a.m. In cases where an Extended Hour License has been issued by the Commissioner of Public Safety, all customers and non-working employees shall vacate the premises by 2:30 a.m. For the purposes of this section, “non-working” employees shall mean:

**530.11.1.1.** Any employee who is not wearing a name tag which sets forth his or her first name and first letter of last name; and/or

**530.11.1.2.** Any employee who, although he or she is wearing a name tag in conformance with the above subsection is not receiving compensation for his or her activity on the premises.

**530.11.2.** It shall be the responsibility of the licensee to assure compliance with this section, and non-compliance shall, in addition to being a violation of this chapter, constitute grounds for suspension or revocation of the license.

(Am. Ord. 2008-09, passed 7-21-08)

**530.12 Dancing Permit.** No dancing shall be allowed on the premises for which any on-sale license has been issued unless the holder of the license shall have been issued a dancing permit by the City Clerk. The fee for the permit shall be as set forth in 520.05 of this chapter.

**530.13 Renewal.** Applications and fees for renewal shall be received by the City Clerk at least 45 days prior to the expiration date of any license.

**530.14 Grounds for Revocation or Suspension.**

**530.14.1.** Licenses issued hereunder may, in addition to causes set forth in applicable Minnesota Statutes and common law, be revoked for violation of the provisions of any rule or regulation promulgated by the Department of Public Safety, and for violation of the provisions of this chapter or any regulations issued thereunder, in the manner provided in M.S. Sections 340A.304 and 340A.415, as they may be amended from time to time.

**530.14.2.** Operation of a business hereunder without meeting the financial responsibility requirements specified in 530.08 of this chapter shall entitle the City Council to immediately suspend or revoke the license. Notice of cancellation of an insurance policy provided to satisfy the requirements of 530.08 shall constitute notice to the licensee insured under the policy that the licensee's license shall be suspended or revoked unless evidence of compliance with the financial responsibility requirement of this chapter shall be presented to the City Council before the cancellation of the insurance policy shall be effective.

**530.15 License Not Effective Beyond Space for Which Granted; Exceptions.**

**530.15.1. General Rule.** No license granted under this section shall be effective beyond the compact and contiguous space named therein for which the license was granted. Licensed premises for any license granted shall include the entire parcel of land on which the establishment is located, provided, however, that no sales or service of alcoholic beverages shall take place outside of the interior portion of the establishment and any exterior portion of the establishment whose perimeter, with the exception of the single entry way to the exterior portion of the establishment, shall be bounded by an identified barrier at least 30" high that is acceptable to the Chief of Police and the City Clerk, constructed in accordance with all applicable codes, ordinances and regulations, and the interior and exterior portions described above shall be permanently dedicated as an area(s) for the serving and sale of alcoholic beverages with the areas to be clearly mapped on the application for the license as the applicant's designated service area.

(Am. Ord. 2022-03, passed 4-4-22)

**530.15.2. Temporary Service Area Expansion License.** The City Council may authorize an expansion of an on-sale intoxicating liquor licensee's designated service area on a temporary basis for a social event. Temporary service area expansions shall only be granted for temporary service areas contiguous to a licensee's premises. All terms and conditions of the applicants' on-sale intoxicating liquor license shall apply to a temporary service area. The City Council may impose any additional conditions and limitations on a temporary service area that the Council deems appropriate.

**530.15.2.1.** Temporary service area expansions shall only be granted for the following types of social events:

**530.15.2.1.1.** An event sponsored by a club, charitable organization, religious organization or other nonprofit organization in existence for at least three years; or

**530.15.2.1.2.** An event held as part of Hermantown Summerfest.

**530.15.2.2.** Before any temporary service area expansion is authorized, the licensee shall make application to the city clerk. The application shall include the following:

**530.15.2.2.1.** Payment of a fee in the amount set from time to time by the City Council to cover the costs and expenses incurred by the City in connection with the consideration of the application;

**530.15.2.2.2.** A diagram of the proposed area;

**530.15.2.2.3.** Specification of the time and date of the event; and

**530.15.2.2.4.** Fencing, signage, toilet facilities, lighting and electrical equipment proposed for the temporary service area, and security measures proposed to be taken.

**530.15.2.3.** Any temporary service area expansion license issued pursuant to this Section 530.15.2 is subject to the following additional provisions:

**530.15.2.3.1.** The licensee shall provide security personnel as determined by the Police Chief;

**530.15.2.3.2.** Adequate provisions for entrances and exits and access by fire, police and other emergency personnel or vehicles to the temporary service area shall be made; and

**530.15.2.3.3.** The licensee shall provide the City with a deposit in the amount set from time to time by the City Council of the City to ensure that licensee will clean up the temporary service area.

**530.15.2.4.** A temporary service area expansion license may be issued for such period of time as determined by the City Council but shall not exceed four consecutive days.

(Am. Ord. 2008-11, passed 12-15-08) (Am. Ord. 2015-05, passed 6-15-15) Am. Ord. 2017-02, passed 2-21-17) (Am. Ord. 2017-04, passed 6-5-17)

## **530.16 Hours and Days of Sale.**

**530.16.1 3.2 Malt Liquor.** No sale of 3.2 malt liquor (on- or off-sale) may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 8:00 a.m. on Sunday.

**530.16.2. Intoxicating Liquor; On-Sale.** No sale of intoxicating liquor for consumption on the licensed premises shall be made:

**530.16.2.1.** Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

**530.16.2.2.** After 2:00 a.m. on Sundays, except as provided by 530.16.3;

**530.16.2.3.** Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except that when December 25 occurs on a Sunday, on-sales shall be governed by 530.16.3.

## **530.16.3. Intoxicating Liquor; Sunday Sales; On-Sale; Expanded Hours.**

**530.16.3.1.** In general, a restaurant, club, bowling center or hotel with a seating capacity for at least 30 persons and which shall hold an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the licensed premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays, but only after receiving a Sunday sales license as required by this chapter.

(Am. Ord. 2007-04, passed 5-21-07) (Am. Ord. 2015-07, passed 7-20-15)

**530.16.4. Intoxicating Liquor; Off-Sale.** No sale of intoxicating liquor may be made by an off-sale licensee:

**530.16.4.1.** On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m. or as provided in Section 510.05C.

**530.16.4.2.** Before 8:00 a.m. on Monday through Saturday;

**530.16.4.3.** After 10:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday provided that an off-sale establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3 unless otherwise prohibited under 530.16.4.1.

**530.16.4.4.** On Thanksgiving Day;



**530.16.4.5.** On Christmas Day, December 25; and

**530.16.4.6.** After 8:00 p.m. on Christmas Eve, December 24.

(Am. Ord. 2017-05, passed 6-5-17)

**530.16.5. Wine; On-Sale.** No sale of wine, on-sale, by a person holding a wine license only, may be made:

**530.16.5.1.** Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

**530.16.5.2.** Between 2:00 a.m. and 8:00 a.m. on Sunday.

(Am. Ord. 2003-11, passed 10-23-03) (Am. Ord. 2015-07, passed 7-20-15)

## **530.17 Persons under 21.**

**530.17.1. Consumption.** It shall be unlawful for any:

**530.17.1.1.** Retail intoxicating liquor or 3.2 malt liquor licensee to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises; or

**530.17.1.2.** Person under the age of 21 years to consume any alcoholic beverages unless in the household of the person's parent or guardian and with consent of the person's parent or guardian.

**530.17.2. Purchasing.** It shall be unlawful for any person:

**530.17.2.1.** To sell, barter, furnish or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;

**530.17.2.2.** Under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

**530.17.2.3.** To induce a person under the age of 21 years to purchase or procure any alcoholic beverage, or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under age 21 for the purpose of purchasing or attempting to purchase an alcoholic beverage.

**530.17.3. Possession.** It shall be unlawful for a person under the age of 21 years to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian. Possession at a place other than household of the parent or guardian creates a rebuttable presumption of intent to consume it at a place other than the household of the parent or guardian. This presumption may be rebutted by a preponderance of the evidence.

**530.17.4. Entering Licensed Premises.** Nothing in this Section 530.17.4 shall be deemed to prohibit a person under the age of 21 from entering an establishment licensed for the sale of alcoholic beverages for the purpose of dining or to enter the licensed premises for which a license has been issued under Section 510.05B.1 or permission granted to sell alcoholic beverages under Section 510.05B.3.

(Am. Ord. 2015-05, passed 6-15-15)

**530.17.4.1.** It shall be unlawful for a person under the age of 21 to enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage.

**530.17.4.2.** Persons 18, 19 or 20 years old may enter an establishment licensed under this chapter to:

**530.17.4.2.1.** Perform work for the establishment, including the serving of alcoholic beverages;

**530.17.4.2.2.** Consume meals; and

**530.17.4.2.3.** Attend social functions that are held in a portion of the establishment where liquor shall not be sold.

**530.17.4.3.** In no case shall a person under the age of 18 be permitted to serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

**530.17.5. Misrepresentation of Age.** It shall be unlawful for a person under the age of 21 years to claim to be 21 years old or older for the purpose of purchasing alcoholic beverages.

**530.17.6. Proof of Age.** Proof of age for purchasing or consuming alcoholic beverages shall be established only by a valid driver's license issued by Minnesota, another state, or a province of Canada and including the photograph and date of birth of the licensed person or a valid Minnesota identification card, or in the case of a foreign national by a valid passport or a valid Canadian identification card with the photograph and date of birth of the person, issued by a Canadian province.

**530.17.7. Employment of Minors.** No person under 18 years of age shall be employed in a place where intoxicating liquor is sold for consumption on the licensed premises, except persons under 18 years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that shall be licensed to sell intoxicating liquor and persons under 18 years of age may be employed as waiters or waitresses at a restaurant, hotel, or motel where only wine is sold, provided that the person under the age of 18 may not serve or sell any wine.

**530.18 Posting of Signs.**

**530.18.1.** Premises that are licensed off-sale intoxicating and 3.2 malt liquor sales, including municipal liquor stores, shall post and maintain in a conspicuous place signs warning customers of the penalty for driving under the influence and criminal vehicular homicide, warning that the establishment shall not serve to persons under 21 years of age or who are obviously intoxicated, and a warning statement regarding drinking alcohol while pregnant. The sign shall be at least 14½ inches wide by 8 inches and shall be the one available from the State Commissioners of Health and Public Safety.

**530.18.2.** For purposes of this subsection, a “conspicuous place” shall be a location clearly visible to the customers of the establishment. The intent of this section is to conform to the requirements of M.S. Section 340A.10 (4)(b), as it may be amended from time to time.

**530.19 Sales to Obviously Intoxicated Persons.** No person may sell, give, furnish or in any way procure for another person alcoholic beverages for the use of an obviously intoxicated person.

**530.20 Posting of License.** A retail license to sell alcoholic beverages shall be posted in a conspicuous place in the premises for which it is used.

**530.21 License Extension; Death of Licensee.** In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative of the estate of the deceased licensee shall be authorized to continue operation of the business for not more than 90 days after the death of the licensee.

**530.22 Illegal Gambling.**

**530.22.1. Gambling Apparatus.** Except as provided in 530.22.2, no licensee shall keep, possess, operate or permit the keeping, possession or operation of the licensed premises of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the licensed premises or in any room adjoining the licensed premises controlled by the licensee, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under licensee's control, to be used as a resort for prostitutes or other disorderly persons.

**530.22.2. Charitable Gambling.** A charitable organization licensed by the state pursuant to M.S. Chapter 349, as it may be amended from time to time, to conduct lawful gambling may conduct the gambling on premises for which an intoxicating or 3.2 malt liquor license has been issued. The operation of charitable gambling in establishments licensed to sell alcoholic beverages shall be subject to all applicable laws, ordinances, rules and regulations, including, without limitation, the provisions of this code and no licensee or other person shall violate any of the regulations.

**530.23 Copy of Summons.** Every application for the issuance or renewal of any license issued pursuant to this chapter shall include a copy of each summons received by the applicant under M.S. Section 340A.802, as it may be amended from time to time, during the preceding year.

**530.24 Coin-Operated Devices.** Coin-operated devices may not be made available in establishments licensed solely for the off-sale of intoxicating liquors.

**530.25 License Required.** Except as provided by this chapter and M.S. Chapter 340A, as it may be amended from time to time, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale or otherwise dispose of alcoholic beverages as part of a transaction without having first obtained a license under this chapter.

**530.26 Workers' Compensation Certificate.** No license shall be granted under this section unless the applicant shall provide with his or her application a certificate evidencing that applicant has in force and effect workers' compensation insurance that meets the requirements of M.S. Section 176.181 (2), as it may be amended from time to time.

**530.27 Limitations on Issuance of 3.2 Malt Liquor Licenses.** On-sale 3.2 malt liquor licenses shall be issued only to restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2 malt liquor with the incidental sale of tobacco and soft drinks.

(Am. Ord. 2013-01, Sec. 530.16.3.2., passed 3-4-13)

**530.28 Off-Sale Intoxicating Liquor License Criteria.**

**530.28.1. Applicability.** The provisions of Section 530.28.2 shall be applicable to any application for a new (not a renewal) of an off-sale intoxicating liquor license after January 1, 2015. The provisions of Section 530.28.3 shall be applicable to any applicant for a new (not a renewal) off-sale intoxicating liquor license.

**530.28.2. Facility Standards.** No off-sale intoxicating liquor license shall be approved unless the following standards are met with respect to the facility ("Facility") that will be the licensed premises of the new off-sale liquor establishment:

**530.28.2.1.** The parking lot shall be paved and maintained in good repair. It shall contain the minimum number of parking spaces as required by the City Zoning Code.

**530.28.2.2.** Safety and security lighting as determined as necessary by the City Administrator or his/her designee provided.

**530.28.2.3.** The customer entrance to the Facility is separate from any other use.

**530.28.2.4.** Safe access to the parking areas for the Facility as determined by the City Administrator or his/her designee is available from public roads.

**530.28.2.5.** No outside storage is allowed on the Parcel.

**530.28.2.6.** Any waste or recycling areas for the Facility are screened in a manner acceptable to the City Administrator or his/her designee.

**530.28.2.7.** The parcel of property upon which the Facility is located (“Parcel”) does not abut on property that is owned by a governmental entity. A Parcel separated from a property that is owned by a governmental entity by a public roadway is not abutting for purposes of this Ordinance.

**530.28.2.8.** The Facility must be designed by a Minnesota Licensed Architect and the site plan for the Facility on the Parcel must be prepared by a Minnesota Licensed Engineer.

**530.28.2.9.** All applicable provisions of the Hermantown Zoning Code, Building Code and all other applicable laws, rules and regulations must be satisfied in full with respect to the Facility.

**530.28.2.10.** The Facility must receive a Certificate of Occupancy issued by the Hermantown Building Official within twelve (12) months of the approval of the initial off-sale intoxicating liquor license. If the off-sale intoxicating liquor license expires during this one year period, Applicant must apply for a renewal of the off-sale intoxicating liquor license.

**530.28.3. Ownership Standards.** No off-sale intoxicating liquor license shall be initially approved or a transfer of an off-sale intoxicating liquor license shall be approved unless the following standards are met with respect to the owner or transferee of the Facility for which the off-sale intoxicating liquor license is issued.

**530.28.3.1.** If the business is to be operated under a name other than the official name of the applicant for the initial issuance of a transfer of the off-sale intoxicating liquor license, then a Certificate of Assumed Name must be provided to the City that shows all parties in interest in applicant.

**530.28.3.2.** The names and addresses of all owners or parties with a financial interest (including loans other than from banks or credit unions) in the Facility and his/her/their spouses or adult individuals residing in the same household must be provided to the City.

**530.28.3.3.** An investigation fee in an amount as determined by the City of Hermantown Fee Schedule, as it may be amended from time to time, for each name provided pursuant to Section 530.28.3.2 is paid to the City in addition to any other fees.

**530.28.3.4.** Background checks are done on all individuals identified by operation of Section 530.28.3.2. No individuals identified in Section 530.28.3.4. may be disqualified for any other provision of Chapter 5 of the Hermantown Zoning Code or applicable law holding an off-sale intoxicating liquor licenses by operation of Section 530.28.3.10.

**530.28.3.5.** The applicant provides a credit reference letter from a bank or credit union that states that applicant has the financial capacity to develop a retail facility and conduct a liquor store operation.

**530.28.3.6.** A credit check is done on all of the individuals identified by operation of Section 530.28.3.2. and no adverse credit events have occurred within five (5) years of the date of the application for an off-sale liquor license or an application for a transfer of an off-sale liquor license.

**530.28.3.7.** No transfer of the off-sale intoxicating liquor license will be approved by the City for three (3) years after the opening of the establishment for which the license is issued.

**530.28.3.8.** Information regarding the financial status of the applicant, including the amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture, or stock in trade, and proof of the source of the money. The applicant must submit a certification that the applicant is the real party in interest, is financially solvent, and has sufficient capital to responsibly operate the licensed establishment. The certification must be on the City's approved form and issued by an independent, licensed or certified professional such as a lawyer or accountant

**530.28.3.9.** A business plan which shall include the following information:

**530.28.3.9.1.** Hours of operation for the licensed premises;

**530.28.3.9.2 .** Description of the alcohol training that the applicant will provide to all staff;

**530.28.3.9.3.** A security plan that describes the security features, including personnel and equipment, that the applicant will employ and how they will be utilized;

**530.28.3.9.4.** Description of how the applicant will maintain the orderly appearance and operation of the premises with respect to litter, graffiti and refuse control; and

**530.28.3.9.5.** Such other reasonable and pertinent information as the city council may require. An applicant shall promptly notify the City Clerk, in writing, of any amendment to the submitted business plan.

**530.28.3.10.** In addition to any other requirements contained in Chapter 5, no license will be issued to a person who is:

**530.28.3.10.1.** Ineligible under state law; and

**530.28.3.10.2.** Not the real party in interest or beneficial owner of the business to be operated under the license;

**530.28.3.11.** Other information which the Community Development Director deems appropriate.

**530.28.4. Approval Conditions.**

**530.28.4.1.** After investigation, the City Council may, at its discretion, grant or deny the application. Each application for an off-sale intoxicating liquor license requires four affirmative votes by the City Council for approval. No off-sale intoxicating liquor license may become effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

**530.28.4.2.** An application for an off-sale intoxicating liquor license may be considered by the City Council at the same time an applicant is requesting any land use approvals needed for the site. Final approval of an off-sale intoxicating liquor license may not be granted until the applicant has received at least preliminary approval for any necessary land use request.

**530.28.4.3.** A liquor license is a privilege, not a right. Even if a person meets the minimum requirements for a license, the City Council is not obligated to grant the license. The City Council has broad discretion to decide if, where, and how liquor is sold. The City Council may limit the number of licenses, when in its judgment, the welfare of the City suggests such action.

**530.28.4.4.** The City Council may impose reasonable conditions on any license issued or renewed under this section in order to promote public health, safety, and welfare. The conditions may include regulations of such things as the type of product sold, type of establishment, hours of operation, and relationship or proximity to other uses.

**530.28.5. Mandatory Training Seminars.**

**530.28.5.1.** Generally. Each licensee must have at least one representative attend all mandatory liquor license training seminars conducted by the City. The representative need not be the same person each time but must hold a position of responsibility in either the ownership or management of the licensee.

**530.28.5.2.** New Licensees. For twelve (12) months after initial issuance of a license, each new licensee must have a City approved vendor train all managers and employees who sell alcoholic beverages, within 60 days after hire. The training must include the laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments selling intoxicating liquors. An owner who works at the establishment is considered a manager for this requirement.

(Am. Ord. 2015-12, passed 11-16-15)

## **Section 540 - Investigation; Resolution of Complaint of License Violations**

### **540.01 Purpose.**

**540.01.1.** It shall be the purpose of this section to provide for the effective and uniform enforcement of the Minnesota intoxicating liquor and 3.2 malt liquor laws, as well as the provisions of the Hermantown Alcoholic Beverage Code as set forth in this chapter.

**540.01.2.** This section shall be intended to provide for the investigation of violations of applicable law by individuals or establishments licensed by the City to sell intoxicating liquor, 3.2 malt liquor or wine, in both on-sale and off- sale establishments.

**540.02 Policy.** It shall be the policy of the Hermantown Police Department to investigate all allegations of liquor law violations within the City.

### **540.03 Responsibility of Licensee.**

**540.03.1.** Every licensee shall be responsible for the conduct in the licensed establishment and the conditions of sobriety and order therein. Any violation of this chapter committed on the licensed premises by an employee of the licensee shall be deemed the act of the licensee as well as the employee. The licensee shall be deemed to have knowledge of any gambling or prostitution occurring on the licensed premises. No obviously intoxicated person shall be permitted to remain on any premises licensed under the Code.

**540.03.2.** Any sale of alcoholic beverages in or from any place licensed under this chapter by any clerk, barkeeper or other employee in the place shall be deemed the act of the employer and/or licensee as well as that of the person actually making the sale. The licensee and/or employer shall be subject to all the penalties provided by this chapter for the sale equally with the person actually making the sale.

### **540.04 Complaints.**

**540.04.1 Citizen Complaints.** All complaints made by a citizen regarding any violations of this chapter or M.S. Chapter 340A, as it may be amended from time to time, by any person or establishment within the City limits shall be investigated to the extent that sufficient information shall be available to proceed with an investigation.

**540.04.2 Anonymous Complaints.** Anonymous complaints shall be investigated to the extent that information received shall be sufficiently reliable and complete to permit a proper investigation.

**540.04.3 Officer Complaints.** A police officer observing a violation shall investigate that violation in accordance with established Hermantown Police Department procedures.



**540.04.4 Authorization to Enter Premises.** Police officers may enter any business establishment licensed by the City to sell alcoholic beverages for the purpose of investigating complaints or to determine whether the licensed establishments shall be in compliance with the laws pertaining to the sale of alcoholic beverages.

**540.05 Procedure. 540.05.1 Officer Investigation.** A police officer shall investigate all complaints alleging liquor law violations in accordance with established Hermantown Police Department procedures. A police officer who investigates a complaint of liquor law violations or who observes a liquor law violation shall complete an investigation report which shall be submitted to the Chief of Police. The report shall include the violation, the action taken by the officer and any additional relevant information.

**540.05.2 Review by Chief of Police and City Council.** The Chief of Police shall review all investigation reports and prepare a finding of fact/disposition report upon conclusion of the investigation. A copy of this report shall be forwarded to the City Council and to the named licensee and a copy of the report shall be placed in the licensee's permanent file.

**540.06 Notice of Complaint.** Where a complaint has been made against a licensee under the provisions of this section, proper notice shall be forwarded to the licensee when an investigation under this section has been completed. The notice shall include the name of the licensee and shall be sent to the business establishment address of the licensee. The notice shall contain the nature of the complaint, findings of fact and the conclusions or result of the investigation. The notice shall be signed by the Chief of Police and a copy shall be forwarded to the City Council. The notice shall be retained in the permanent files of the licensee.

**540.07 Occurrence of Violations.** For purposes of determining the number of occurrences of violations, the City Council shall consider a violation as a second occurrence if it occurred within thirty-six (36) months of the first violation; and shall consider a violation as a third occurrence if it occurred within twelve (12) months of the second violation; and shall consider a violation a fourth occurrence if it occurred within twelve (12) months of third violation. If there is a change of ownership (meaning at least fifty percent (50%) of the ownership is transferred to an unrelated party) of the licensed establishment, previous violation(s) will not apply. For purposes of this Section 540.07, violations occurring prior to the effective date of this Ordinance shall be disregarded. Further, for purposes of this Section 540.07, a first violation shall be disregarded if a second violation does not occur within thirty-six (36) months of such first violation. If another violation occurs more than thirty-six (36) months after the occurrence of a disregarded first violation, then that violation shall be deemed the first violation for purposes of this Section 540.07.

**540.08 Administrative Penalties.** The following administrative penalties shall be imposed on a licensee for violations of this Chapter 5 of the Hermantown Code:

**540.08.1** For the first violation, the Licensee shall pay the City of Hermantown an administrative penalty of One Thousand and No/100 Dollars (\$1,000.00), provided that such penalty shall be reduced to Five Hundred and No/100 Dollars (\$500.00) if the licensee and all of the licensee's employees who serve alcoholic beverages participate in a training program

conducted by the Hermantown Police Department within sixty (60) days of the date of the first violation.

**540.08.2** For the second violation, the licensee shall pay the City of Hermantown an administrative penalty of Two Thousand and No/100 Dollars (\$2,000.00) provided that such penalty shall be reduced to One Thousand and No/100 Dollars (\$1,000.00) if the licensee and all of the licensee's employees who serve alcoholic beverages participate in a training program conducted by the Hermantown Police Department within sixty (60) days of the date of the second violation.

**540.08.3** For the third violation, the licensee shall pay to the City an administrative penalty of Two Thousand and No/100 Dollars (\$2,000.00) and the licensee's license shall be suspended for thirty (30) days.

**540.08.4** For the fourth violation, the licensee shall pay to the City an administrative penalty of Two Thousand and No/100 Dollars (\$2,000.00) and the licensee's license shall be revoked.

**540.09 Hearings.** If a person accused of violating this section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the alleged violator.

**540.10 Hearing Officer.** The City Administrator shall serve as the hearing officer for hearings with respect to administrative financial penalties. An independent person shall act as a hearing officer for the suspension or revocation of a license and be conducted in accordance with Section 530.14.1.

**540.11 Decision.** If the hearing officer determines that a violation of this section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed, shall be recorded in writing, a copy of which shall be provided to the alleged violator and the City. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the alleged violator and the City.

**540.12 Appeals.** Appeals of any decision made by the hearing officer shall be made to the district court venued in St. Louis County, Duluth.

**540.13 Misdemeanor Prosecution.** Nothing in this section shall prohibit the City from prosecuting as a misdemeanor any alleged violation of this section in addition to imposing any administrative penalty, suspension or revocation.

**540.14 Continued Violation.** Each violation, and every day that violation occurs or continues, shall constitute a separate offense.

**540.15** A failure to pay an administrative penalty imposed by operation of this Chapter 5 within the time limit set for the payment of such penalty shall be grounds for the suspension of the licensee's license until the administrative penalty is paid.

(Am. Ord. 2012-02, passed 3-19-12)

## **Section 550 - Alcoholic Beverages in Public Places**

### **550.01 Prohibitions.**

**550.01.1.** No owner, manager or person having control of any public place shall serve, permit to be served or permit any person to consume alcoholic beverages in the public place unless the place has been duly issued an on-sale or temporary on-sale license.

**550.01.2.** No person shall mix, prepare, serve or consume alcoholic beverages in any public place, unless the place has been duly issued an on- sale or temporary on-sale license.

**550.01.3.** No person shall consume or have alcoholic beverages in his or her possession in any public place having an on-sale or temporary on-sale license unless the alcoholic beverages have been served to him or her by the holder of the on-sale or temporary on-sale license or the employer or agent of the holder of the on-sale or temporary on-sale license.

**550.02 Public Place; Definition.** For purposes of this section, “public place” shall have the meaning given it in 500.03.12.

**550.03 Providing of Samples.** It shall be lawful for the holder of an off-sale intoxicating liquor license issued pursuant to this chapter to provide samples of wine, liqueurs, malt liquor and cordials which the licensee currently has in stock and is offering for sale to the general public, provided the wine, liqueur, malt liquor and cordial samples shall be dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer and 25 milliliters of liqueur or cordial per variety per customer, and provided further that no person shall be served more than two samples of malt liquor, two samples of wine and one sample of liqueur or cordial on any licensed premises in any day.

(Ord. 2007-03, passed 4-16-07) (Am. Ord. 2015-05, passed 6-15-15)

## **Section 560 - Bottle Club Permits**

**560.01 No Approval for Bottle Club Permits.** The City shall not approve any permit issued under M.S. Section 340A.414, as it may be amended from time to time.

**560.02 Notification of Non-Approval of Bottle Club.** Promptly after the receipt by the City of any request for the approval of any permit issued under M.S. Section 340A.414, as it may be amended from time to time, the City Clerk shall notify the Commissioner of Public Safety of the State of Minnesota and the party seeking the permit that the City shall not approve any permit issued under M.S. Section 340A.414, as it may be amended from time to time.

**560.03 Issuance of One-Day Permits Denied.** The City shall not issue any one- day permits under M.S. Section 340A.414 (9), as it may be amended from time to time.

**560.04 Notification of Denial of Issuance of One-Day Bottle Club Permits.** Promptly after the receipt by the City of an application or request for a one-day permit under M.S. Section 340A.414 (9), as it may be amended from time to time, the City Clerk shall notify the Commissioner of Public Safety of the State of Minnesota and the party seeking the permit that the City shall not approve or issue any permit under M.S. Section 340A.414 (9), as it may be amended from time to time.

**560.05 No Temporary 3.2 Malt Liquor Licenses.** The City shall not issue any temporary 3.2 malt liquor licenses.

(Am. Ord. 2002-06, passed 8-5-02)

## **Section 570 - Nudity Prohibited**

**570.01 Purpose.** It shall be in the best interest of the public health, safety and general welfare of the people of the City that certain types of activities, as set forth in this section shall be prohibited upon the premises of licensed liquor, wine and beer establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. The standards in this section reflect the prevailing community standards in the City. This section shall be intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity and sex. It shall also be desired to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault and disorderly conduct.

**570.02 Certain Acts Prohibited.** It shall be unlawful for any licensee to permit or allow any person or persons from being upon the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a non-transparent material, and it shall be unlawful for any person to so appear without said areas covered with a non-transparent material.

**570.03 Violation.** A violation of this section shall, in addition to all other remedies available to the City under this section, this Code and applicable law, be justification for revocation or suspension of any liquor, wine or beer license.

## **Section 580 - Club Licenses**

**580.01 Racial Discrimination.** No club license may be issued to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

### **580.02 Restrictions.**

**580.02.1.** No club license shall be issued unless the applicant for the club license has been in existence for at least three years.

**580.02.2.** No sale of alcoholic beverages may be made by a club holding a club license to persons other than members and bona fide guests.

**580.02.3. Definitions.** The following terms, as used in this section, shall have the meanings stated:

**580.02.3.1.** "Member" means any person in good standing according to rules and regulations of the licensed club, wherever located, having evidence of current membership upon his/her person.

**580.02.3.2.** "Guest" means a person not a member of the club but present on the club licensed premises in the company of a host member.

**580.02.3.3.** "Host Member" means a member who is entertaining a guest who is in the member's company at all times such guest is on the licensed premises.

**580.02.3.4.** All club licensees shall keep a daily register showing the names of guests present and the name of the host member. Such register shall be open to inspection by police officers at all times.

**580.02.3.5.** No club licensee shall hinder or prevent a police officer from determining compliance with this section and all other laws.

**580.02.3.6.** It is unlawful for any person to refuse, upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest, or host member, or to give false, fraudulent or misleading information in response to such request.

**580.02.3.7.** Club licensees shall comply with all other applicable provisions of the Code, state law, rules and regulations.

(Am. Ord. 2002-06, passed 8-5-02)