

CITY OF HANOVER
CHAPTER 3: LIQUOR REGULATIONS

ADOPTED:

07/05/11 – Ordinance No. 2011-08

AMMENDED:

SEC. 3.01 ADOPTION OF STATE LAW BY REFERENCE

The provisions of M.S. Ch. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted. To the extent future amendments of M.S. Ch. 340A are more restrictive than the terms herein; the more restrictive provisions shall apply.

SEC. 3.02 CITY MAY BE MORE RESTRICTIVE THAN STATE LAW

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

SEC. 3.03 DEFINITIONS

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

- A. “Alcoholic Beverage” means any beverage containing more than one-half of one percent alcohol by volume, including but not limited to beer, wine and liquor as defined in this Chapter.
- B. “Applicant” means any person filing an application for business licensure under this Chapter.
- C. “Application” means a form furnished by the City to be completed by an applicant as a prerequisite for consideration for business licensure.
- D. “Bed & Breakfast” means a place of lodging that provides not more than eight rooms for rent to no more than 20 guests at a time; is located on the same property as the owner’s personal residence; and was originally built and occupied as, or converted to, a single-family residence prior to use as a place of lodging.
- E. “Beer” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight, including “malt coolers” with the alcoholic content limits stated herein.
- F. “Club” means any incorporated organization organized under the laws of this state for

- civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization which has more than 30 members, has owned or rented a building or space in a building for more than one year that is suitable for accommodation of its members, and is directed by a board of directors, executive committee, or similar body chosen by the members for that purpose. No member, officer, agent, or employee may receive any profit from the sale of liquor other than a reasonable salary.
- G. "Exclusive Liquor Store" means an establishment used exclusively for the sale of alcoholic beverages; tobacco products; ice; liquid or powder beverages designed to mix with alcoholic beverages; soft drinks; liquor-filled candies; cork extraction devices; books, videos and other publications published for information on alcoholic beverages; and home-brewing equipment.
- H. "Hotel & Motel" means an establishment where food and lodging are regularly furnished to transients in exchange for payment and which has: (1) a dining room serving the general public at tables which seats at least 30 guests at one time and (2) a minimum of 10 guest rooms.
- I. "License" means a document, issued by the City, entitling the recipient to carry on and transact business as stated therein.
- J. "License Fee" means money paid to the City pursuant to an applicant for a license to carry on and transact business as stated therein.
- K. "Licensee" means the holder of a valid, current, unexpired license, approved by the City, which has neither been revoked nor suspended, to conduct business as stated therein.
- L. "Liquor" means Ethyl alcohol, and distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight, including "wine coolers" and "malt coolers" with these alcoholic content limits.
- M. "Manufacturer" means a person who, by process of fermenting, brewing, distilling, refining, rectifying, blending, or by combination of different materials, prepares or produces liquor, wine, or beer for sale.
- N. "Off-Sale" means the retail sale of alcoholic beverages in original packages for consumption off the licensed premises only.
- O. "On-Sale" means the retail sale of alcoholic beverages for consumption on the licensed premises only.
- P. "Original Package" means a sealed or corked container containing an alcoholic beverage.
- Q. "Place of Worship" means a building where persons gather to engage in religious activities.

- R. “Responsible Seller/Server Training Course” means a course dealing with Minnesota laws regarding the sale and service of liquor or wine; said course must include an examination that identifies that the student has successfully learned the basic facts and information relating to the safe and legal sale and service of liquor or wine.
- S. “Restaurant” means an 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 in exchange for payment, which has a minimum seating capacity of 30 guests at one time.
- T. “Retail” means sale for consumption.
- U. “Sale, Sell & Sold” means all manners and means of furnishing alcoholic beverages to persons including barterers.
- V. “Training Verification Fee” means money paid to the City prior to the issuance of and in connection with an Application for a liquor or wine license for the sale or service of liquor or wine.
- W. “Wholesaler” means a person who sells alcoholic beverages to retail dealers.
- X. “Wine” means the beverage made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condense 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 24 percent alcohol by volume for nonindustrial use. This definition includes “wine coolers” with the alcoholic content limits stated herein.

SEC. 3.04 LIQUOR LICENSE REQUIRED

It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of liquor, as part of a commercial transaction, without a license therefore from the City. This Section shall not apply (1) to such potable liquors as are intended for therapeutic purposes and not as a beverage, (2) to industrial alcohol and its compounds not prepared or used for beverage purposes, (3) to wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee, (4) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, or (5) to sales by wholesalers to persons holding liquor licenses from the City. The City may issue annual on-sale liquor licenses to hotels, restaurants, bowling centers, clubs or congressionally chartered veterans’ organizations (with the permission of the Commissioner), provided that liquor sales will be made only to members and bona fide guests, and exclusive liquor stores. Any person licensed to sell liquor on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain

an off-sale beer license, and may sell beer off-sale without an additional license.

SEC. 3.05 TERM AND EXPIRATION OF LICENSES

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms.

SEC. 3.06 KINDS OF LIQUOR LICENSES

The City may issue the following licenses and permits, up to the number specified in M.S. Ch. § 340A.

- A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- B. 3.2 percent malt liquor off-sale license.
- C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
- D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994.
- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, in existence at least 3 years, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the City under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City or instrumentality thereof, under the provisions of M.S. § 340A.404, subd. 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.
- F. Sunday on-sale intoxicating liquor licenses, having been approved by the electorate, may be issued only to a restaurant as defined in this Section, club, bowling center, or hotel

which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food.

- G. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the City shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.
- H. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: licensed bed and breakfast facilities, theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with content over 3.2 percent (strong beer) without an additional license.

SEC. 3.07 LICENSE FEES; PRO RATA

- A. No license or other fee established by the City shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a monthly basis.
- D. All license fees shall be paid in full at the time the application is filed with the City.
- E. A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, subd. 5, as it may be amended from time to time, and the City of Hanover Liquor License Refund Policy.

SEC. 3.08 COUNCIL DISCRETION TO GRANT OR DENY A LICENSE

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

SEC. 3.09 APPLICATION FOR LICENSE

- A. Form. Every application for a license issued under this chapter shall be on a form provided by the City. The applicant shall provide such additional information as shall be

required by the City. False statements or omissions on an application form shall result in an automatic rejection of the application. If a license has already been issued, and a false statement or omission is discovered, the license shall be rendered void. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the City. The application shall include a Training Verification Statement signed by the applicant/licensee indicating that all persons selling or serving liquor upon the premises have successfully completed a Responsible Seller/Server Training Course. The City shall verify the training, and shall charge a training verification fee in addition to the standard license fee.

B. Financial responsibility.

1. Prior to the issuance of any license under this chapter for a premises other than that which is owned by the City of Hanover, the applicant shall file with the City:
 - a. A certificate that there is in effect an insurance policy or pool providing minimum coverages of (1) \$100,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$300,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$50,000.00 because of injury to or destruction of property of others in any one occurrence, and (2) \$100,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$300,000.00 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of \$600,000.00 may be included in the insurance coverage; or,
 - b. A bond of a surety company with minimum coverages as provided in Subparagraph A of this Subdivision; or,
 - c. A certificate of the State Treasurer that the licensee has deposited with him/her \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00.
2. Prior to the issuance of any license under this chapter for a premises owned by the City of Hanover, the applicant shall file with the City:
 - a. A certificate, with the City listed as an additional insured, that there is in effect an insurance policy or pool providing minimum coverages of (1) \$1,000,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$2,000,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$300,000.00 because of injury to or destruction of property of others in any one occurrence, and (2) \$1,000,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$2,000,000.00 for loss

of means of support of two or more persons in any one occurrence; an annual aggregate of \$2,000,000.00 may be included in the insurance coverage. (3) all insurance provided under this Section shall include a provision that the canceling party shall give the City 30 days notice in writing of its intent to cancel the insurance.

SEC. 3.10 DESCRIPTION OF PREMISES

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

SEC. 3.11 APPLICATIONS FOR RENEWAL

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

SEC. 3.12 TRANSFER OF LICENSE

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

SEC. 3.13 INVESTIGATION

- A. Preliminary Background and Financial Investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the City shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety or a local law enforcement agency for the investigation. The applicant shall pay with the application an investigation fee of \$300 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$300, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
- B. Comprehensive Background and Financial Investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive

background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$300, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

SEC. 3.14 ACTION

After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

SEC. 3.15 RESTRICTIONS ON ISSUANCE

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one license shall be directly or indirectly issued within the City to any one person.
- C. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.
- D. No license shall be issued for any place or any business ineligible for a license under state law.
- E. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this part (E) shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.
- F. No license shall be granted within 300 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.
- G. Before a license is issued under this Chapter to a corporation, partnership, or association,

the applicant or applicants shall appoint in writing a natural person as its manager or agent. Such resident manager or agent shall consent in writing to: (1) take full responsibility for the conduct of the licensed premises; and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must (1) take full responsibility for the conduct of the licensed premises; and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceases to act in such capacity for the licensee without appointment of a successor or be readily available and responsible to reasonably manage the business in its daily operations, the license issued pursuant to such appointment may be subject to revocation or suspension.

SEC. 3.16 CONDITIONS OF LICENSE

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
- B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
- C. Every licensee shall allow any peace officer, health officer, City employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

SEC. 3.17 HOURS AND DAYS OF SALE

- A. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

Any violation of any condition of this section may be grounds for revocation or suspension of the license.

SEC. 3.18 MINORS ON PREMISES

- A. Consumption. It is unlawful for any:
 - 1. Licensee to permit any person under 21 years of age to consume alcoholic beverages on the licensed premises.
 - 2. Person under 21 years of age to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent and in the presence of the parent or guardian.
- B. Purchasing. It is unlawful for any:
 - 1. Person to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age unless such person is the parent or guardian of the person under 21 years of age, and then only for consumption in the household and in the presence of the parent or guardian.
 - 2. Person under 21 years of age to purchase or attempt to purchase any alcoholic beverage.
 - 3. Person to induce a person under 21 years of age to purchase or procure any alcoholic beverage.
- C. Possession. It is unlawful for a person under 21 years of age 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 of an alcoholic beverage by a person under 21 years of age at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of a parent or guardian.

- D. Entering Licensed Premises. It is unlawful for a person under 21 years of age to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of 18 to enter licensed premises for the following purpose: (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute; (2) to consume meals; and (3) to attend social functions that are held in a portion of the establishment where liquor is not sold. It is unlawful for a licensee to permit a person under the age of 18 to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.
- E. Misrepresentation of Age. It is unlawful for a minor to make a misrepresentation of age for the purpose of purchasing an alcoholic beverage.
- F. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license, a Minnesota identification card, or, in the case of a foreign national, by a valid passport.
- G. License Inspection. License Inspectors or persons as designated by the City are authorized to conduct periodic inspections of the premises of liquor license holders to assure compliance with the City Code and state law. Licensees shall be responsible for the conduct of their employees, agents and representatives while on the licensed premises. Fines for noncompliance may be issued for violations. Any fine is subject to appeal to the City Council.

SEC. 3.19 LIQUOR UNLAWFUL ACTS

It is unlawful for any:

- A. Person to knowingly induce another to make an illegal sale or purchase of an alcoholic beverage.
- B. Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.
- C. Licensee to fail, where reasonable doubt of legal age could exist, to require adequate proof of age of a person upon licensed premises.
- D. Licensee to sell an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.
- E. Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.
- F. Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

SEC. 3.20 OUTDOOR LIQUOR SALES

The sale of liquor by a holder of a retail on-sale liquor license issued by the City may occur outdoors, subject to the following regulations:

- A. Days. The holder of an on-sale liquor license may not sell liquor outdoors for more than one consecutive day without the approval of the City Council.
- B. Hours. No intoxicating liquor is to be served outside between the hours of twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M.
- C. Fencing; Access. The area designated for the dispensing and consuming of liquor shall be enclosed by a fence with access into the designated area allowed only via the principal building located on the property, unless a different controlled access is approved by the City.
- D. Music and Entertainment.
 - 1. No music or other entertainment shall be allowed in the designated areas without specific approval by the City.
 - 2. Music or other entertainment in the designated area shall cease at eleven fifty nine o'clock (11:59) P.M. on Friday and Saturday and at ten o'clock (10:00) P.M. on all other nights.
 - 3. Other Regulations. The City may require any other reasonable conditions.

SEC. 3.21 SUSPENSION AND REVOCATION

- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license and/or assess a civil fine not exceeding \$2,000 upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. § 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.
- B. The following are the presumptive periods of suspension or revocation for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:
 - 1. For commission of a felony related to the licensed activity, sale of alcoholic

beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of M.S. § 112.04, the license shall be revoked.

2. The license shall be suspended by the Council after a finding under subsection (A) above that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:
 - a. For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
 - b. For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - c. For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - d. For a fourth violation within any three-year period, the license shall be revoked.
 3. The above are presumptive penalties only. The Council is free to depart from the guidelines where it determines aggravating or extenuating circumstances exist.
 4. The Council shall select the day or days during which the license will be suspended.
- C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under the above subsection (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

SEC. 3.22 CRIMINAL PENALTIES

- A. Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be

punished as provided by law.

- B. The term “violation” as used in Section 20 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

SEC. 3.23 SOCIAL HOST

- A. Purpose and Findings. The Hanover City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Hanover City Council finds that:
1. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
 2. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
 3. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
 4. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
 5. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
 6. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.
- B. Authority. This Section is enacted pursuant to Minn. Stat. §145A.05.
- C. Definitions. For the purpose of this Section, the following terms, as

used in this section, shall have the meanings stated:

1. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
2. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
3. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
4. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
5. “Parent” means any person having legal custody of a juvenile:
 - a. As natural, adoptive parent, or step-parent;
 - b. As a legal guardian; or
 - c. As a person to whom legal custody has been given by order of the court.
6. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
7. “Residence” or “premises” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
8. “Underage person” is any individual under twenty-one (21) years of age.

D. Prohibited Acts.

1. It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises, or on any other private or public property where alcohol or alcoholic beverages are present, when the person knows or reasonably should know that an underage person will or does 1) consume any alcohol or alcoholic beverage; or 2) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

2. A person is criminally responsible for violating Subdivision 4 above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
3. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

E. Exceptions.

- a. This Section does not apply to conduct solely between an underage person and his or her parents while present in the parent’s household.
- b. This Section does not apply to legally protected religious observances.
- c. This Section does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd. 1(a)(1).
- d. This Section does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

F. Enforcement. This Section can be enforced by any police officer.

G. Severability. If any section, subsection, sentence, clause, phrase, word, or other portion of this Section is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

H. Penalty. Violation of Subdivision D is a misdemeanor.

SEC. 3.24 ULTIMATE FIGHTING PROHIBITED

A. Definition.

1. “Ultimate fighting” shall mean any activity, regardless of how named or described, or any other form of entertainment, where the primary practice involves individuals engaged in physical contact by striking or touching an opponent with hands, head, feet, or body. This shall include, but not be limited to, any contest or event where kicking, punching, martial arts, or submission holds are permitted. Officially sanctioned and regulated boxing and wrestling and team sports in which physical contact is incidental to the primary purpose of the game,

including, but not limited to, football, basketball, volleyball, soccer, baseball, and softball are not included among activities prohibited by this section. Martial arts training or contests governed and sponsored by schools of martial arts are also not included among activities prohibited by this section.

- B. Unlawful act. No licensee shall permit, promote, or allow participation in ultimate fighting in any licensed establishment or any adjoining property owned or leased by the licensee.

SEC. 3.25 NUDITY OR OBSCENITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED

- A. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

1. “Nudity” means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
2. “Obscene performance” means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.
3. “Obscenities” means those slang words currently rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
4. “Sadomasochistic abuse” mean flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
5. “Sexual conduct” means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
6. “Sexual excitement” means the condition of human male or female genitals or the

breast of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

- B. Unlawful Act. It is unlawful for any person issued a license provided for in this Chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.