Agenda

City of Minnetonka

Study Session

Wednesday, July 1, 2015

6:30 p.m.

Council Chambers

1. Issuance of liquor licenses – council policy 6.1
2. Adjournment

The purpose of a study session is to allow the city council to discuss matters informally and in greater detail than permitted at formal council meetings. While all meetings of the council are open to the public, study session discussions are generally limited to the council, staff and consultants.
City Council Study Session Agenda Item #1
Meeting of July 1, 2015

Brief Description: Policy for Off-Sale Liquor Licensing and Other Liquor Ordinance Changes

Background

The city recently received two off-sale liquor license applications. One is for Target near Highway 7/County Road 101 and another from Total Wine proposed to be located next to Whole Foods. During the review of Target’s application, the council requested a study session to discuss the policy for licensing off-sale liquor stores.

This report will provide information regarding past discussions about liquor licensing, historical and current licensing, discussions in other cities, potential policies and legislative changes to liquor laws.

Past Policy Discussions

The city of Minnetonka established a liquor policy in 1984, which has evolved over the years. In 2002, there was discussion during the review of the Cost Plus liquor store (now Trader Joe’s). The concern was about the number of liquor stores, which at the time was nine stores, and the new store’s effects on existing businesses.

In 2003, the city was again considering a liquor license along Highway 7 for Barrel Wine and Spirits, and there was discussion about the number of stores and proximity to schools, churches or other youth oriented facilities. That discussion resulted in amendments to the city’s policy which provides criteria by which to evaluate the issuance of liquor licenses.

In 2006, during the review of the Wine Shop store’s application, the council again discussed the number and proximity to other stores. This was the most extensive discussion continuing over a series of six meetings. In the end, the city council found that it was appropriate to issue the license.

In 2009, discussion occurred regarding location density of stores during the review of Trader Joe’s and Big Top Liquor. At the time of these reviews, the council did not choose to limit the number of stores within the community.

Most recently, in 2010 the city council received a request for a warehouse-type liquor store, and some councilmembers expressed concerns over the number of stores in the community (12 at the time). After a number of discussions, the city council did amend the policy to include the following language:
Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010 are generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:

a. offers a distinctive specialty service, or is a small, complementary part of a new business, that would add positively to the experience of living and working in the city; or
b. is part of a redevelopment project in a village or regional center that is not currently served.

The policy also considers traffic, parking, and proximity to schools, churches or youth oriented facilities (see full policy language on A1-A8).

**Reasons for Regulation**

There are some basic assumptions about the control of liquor:

- Regulation allows control to prevent minors from accessing alcohol,
- to limit over consumption, and
to allow cities to determine their own environment by the way they license.

Historically, Minnetonka has had a moderate approach to liquor regulation by providing in depth review of applications, a policy which identifies penalties for failures and in some cases, has either denied or revoked licenses.

**Current Off-Sale Licenses**

The number of off-sale liquor stores has fluctuated in the community between 9 and 12. The following table provides that history:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of off-sale intoxicating licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>9</td>
</tr>
<tr>
<td>2002</td>
<td>9</td>
</tr>
<tr>
<td>2003</td>
<td>9 (+ Cost Plus, - Broviak)</td>
</tr>
<tr>
<td>2004</td>
<td>10 (+Barrel Wine)</td>
</tr>
<tr>
<td>2005</td>
<td>10</td>
</tr>
<tr>
<td>2006</td>
<td>11 (+Wine Shop)</td>
</tr>
<tr>
<td>2007</td>
<td>10 (-Barrel Wine)</td>
</tr>
</tbody>
</table>
The current list of off sale license holders include the following (See page A9):

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Address</th>
<th>Council Approved</th>
</tr>
</thead>
<tbody>
<tr>
<td>Big Top Liquors*</td>
<td>12937 Ridgedale Dr</td>
<td>2009</td>
</tr>
<tr>
<td>Byerlys Wines &amp; Spirits</td>
<td>13081 Ridgedale Dr</td>
<td>1997</td>
</tr>
<tr>
<td>Glen Lake Wine &amp; Spirits*</td>
<td>14704 Excelsior Blvd</td>
<td>2006</td>
</tr>
<tr>
<td>Haskell's</td>
<td>12900 Wayzata Blvd</td>
<td>1996</td>
</tr>
<tr>
<td>MGM Wine &amp; Spirits*</td>
<td>4795 Co Rd 101</td>
<td>1994</td>
</tr>
<tr>
<td>Strong Liquor</td>
<td>11048 Cedar Lake Rd</td>
<td>2007</td>
</tr>
<tr>
<td>Sundial Wine &amp; Spirits</td>
<td>5757 Sanibel Dr</td>
<td>2005</td>
</tr>
<tr>
<td>The Wine Shop</td>
<td>17521 Minnetonka Blvd</td>
<td>2006</td>
</tr>
<tr>
<td>Tonka Bottle Shop</td>
<td>17616 Minnetonka Blvd</td>
<td>1997</td>
</tr>
<tr>
<td>Trader Joe's</td>
<td>11220 Wayzata Blvd</td>
<td>2008</td>
</tr>
<tr>
<td>US Liquor &amp; Wine</td>
<td>11333 State Highway 7</td>
<td>2010</td>
</tr>
</tbody>
</table>

*participates in the Best Management Program

**Best Management Program**

The Best Management Program was established in the early 2000s (see page A10-A18) and was designed to provide license holders an incentive to not serve persons who are underage. The premise is there are reduced violation penalties for businesses that participate in the program. The program requires a certain number of points to be considered participating: training within 60 days of hire; refresher courses for existing employees; and a written policy to check identification of those under 40 years of age. There is a list of additional items where the business has to adopt two or three items to comply: city approved internal compliance check; reward program; automated ID reader; written agreement to contact the city if violation occurs; or written agreement with the city about secondary sales.

The program is voluntary. Every year the city invites representatives to a meeting to promote participation in the program and also to discuss liquor licensing issues. Additionally, the city frequently sends information to establishments to enroll in the program. Currently, the city has 16 of 50 licensed liquor establishments enrolled in the
program, which is the highest participation since 2009. For off-sale stores, the participation is 3 of 11.

**Enforcement**

The city has several avenues to ensure compliance with all types of license holders. The city conducts background checks of all license applicants. Any changes or new ownership structure requires additional review. The city also conducts compliance checks and prosecutes failures both criminally (person selling) and civilly (license holder). Sometimes enforcement ends with a one-day suspension of liquor sales, which occurs more often in an on-sale situation. Historically, violations of the city’s liquor ordinance fluctuate over time. The number of licensed establishments in the city also fluctuate. In the research specific to Minnetonka, there appears to be no predictable correlation between the number of establishments and number or failures or a reduction of failures because of participation in the city’s best management program. The table below illustrates that information. For example, in the last four years, 25% of the violations occurred where the best management program was implemented.
Underage Information

One of the primary reasons for regulating liquor is to reduce access by persons who are under the legal drinking age. The city tracked this information in 2010 and has further researched information from area cities (Plymouth, Wayzata, Eden Prairie, Lakeville and Edina).

Minnetonka has issued less minor consumptions every year for the last five years, particularly in the under 18 category. When comparing totals to other cities, there is a similar trend of reduction in those types of violations.

Minnetonka has also issued very few social host tickets, with less than five in the last five years. (The social host ordinance was adopted in 1999.)

<table>
<thead>
<tr>
<th>Minnetonka</th>
<th>Minor Consumption Citations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>18-21</td>
</tr>
<tr>
<td>2010</td>
<td>123</td>
</tr>
<tr>
<td>2011</td>
<td>89</td>
</tr>
<tr>
<td>2012</td>
<td>57</td>
</tr>
<tr>
<td>2013</td>
<td>26</td>
</tr>
<tr>
<td>2014</td>
<td>16</td>
</tr>
<tr>
<td>TOTALS</td>
<td>311</td>
</tr>
</tbody>
</table>

There is also research that is compiled by the Minnesota Department of Health through the Minnesota Student Survey regarding alcohol use by school district. The report indicates that in both Hopkins and Minnetonka school districts, teenagers are primarily obtaining alcohol from friends, family and other relatives. Very few reported obtaining alcohol directly from liquor stores. These findings are consistent with the comparative communities.

Methods of Regulation

Historically, excluding communities with municipally-run liquor operations, there are basically two methods of control in cities that choose to regulate the density of liquor stores: a population method and/or a proximity method. The population method is straightforward in that the number of stores is established by setting a store-per-population maximum. The proximity method requires liquor stores to be a particular distance apart. Some cities use both regulations. Minnetonka’s policy uses neither, but rather a finite number plus language based more on qualities of the store.
Other Cities’ Discussions

Recently other cities have discussed their liquor policies, which typically centers around three categories: general location; separation; and market issues. (See page A19 for a review of other city restrictions and statistics.)

Burnsville is the most recent example. The city conducted a study of liquor issues including taprooms and brewpubs. They also studied density of liquor stores in their regional center, Burnsville Center. A number of years ago, Burnsville had adopted separation requirements for off-sale liquor stores, and essentially no new establishments could enter the center area. Their city council recently amended their ordinances to remove the cap of 12 liquor stores, which was a population based limit, and remove the separation of stores requirement. The city did keep some requirements about distance to places of assembly.

St. Louis Park recently enacted a moratorium on new off-sale liquor licenses in the community. The city had received an off-sale application for Target at Knollwood and did approve that license. The city conducted more research and found they had 16 stores (one for every 2,800 residents), which is higher than 25 other suburbs. After conducting the research, the council placed the moratorium into effect for one year. The city will review the matter again next month.

The city of Eagan does not place a restriction on the number of liquor stores and has not done so historically. The city’s philosophy is one where the open market provides its own regulation. Currently, Eagan has 15 off-sale stores (one for every 4,300 residents).

Size of Stores

During the Target liquor license discussion, the Minnetonka city council discussed the possibility of the size of liquor stores being a potential way to regulate or differentiate between certain types of liquor stores. The concept was a tiered system that involved the square footage size of a store. Currently, Minnetonka’s stores have the following square footages:

<table>
<thead>
<tr>
<th>Establishment</th>
<th>Square Footage</th>
<th>Accessory or Stand-Alone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trader Joe's</td>
<td>2,200</td>
<td>Accessory</td>
</tr>
<tr>
<td>Strong Liquor</td>
<td>2,305</td>
<td>Stand-Alone</td>
</tr>
<tr>
<td>Glen Lake</td>
<td>3,200</td>
<td>Stand-Alone</td>
</tr>
<tr>
<td>Tonka Bottle</td>
<td>3,244</td>
<td>Stand-Alone</td>
</tr>
<tr>
<td>Sundial</td>
<td>3,480</td>
<td>Stand-Alone</td>
</tr>
<tr>
<td>Byerlys</td>
<td>3,844</td>
<td>Accessory</td>
</tr>
<tr>
<td>Wine Shop</td>
<td>4,500</td>
<td>Accessory</td>
</tr>
<tr>
<td>US Liquor</td>
<td>6,000</td>
<td>Stand-Alone</td>
</tr>
<tr>
<td>Haskell's</td>
<td>8,100</td>
<td>Stand-Alone</td>
</tr>
</tbody>
</table>
The majority of stores (seven) are under 5,000 square feet and the remaining four are between 5,000 and 11,000 square feet. Three stores would be considered accessory to another or larger use (store/restaurant). The stand-alone notation refers to stores that have no affiliation with a larger use. However, some of the liquor stores are located near a larger use.

**Proposed Policy Changes**

Staff has reviewed the policy options and presents the following for city council consideration and discussion.

1) Existing policy language remains the same, essentially deciding on a case-by-case basis if an application meets the criteria in the policy.

2) Allow more liquor stores in the Ridgedale Regional Village Center area, as defined by the comprehensive plan, but maximize the amount in other village center areas.

   Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the current number of liquor licenses are generally adequate to serve the city. The council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:

   - Is located within the Ridgedale Regional Village Center as defined by the city’s comprehensive plan
   - No additional number of stores would be located in other village centers other than the number indicated on the attached map in that specific village center area. (See page A20).

3) Change the policy to remove the number limit and change the language to differentiate between smaller sized stores or accessory to larger uses. The proposed policy language example:

   Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. The council will
consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that:

- The proposed liquor license premise is under 5,000 square feet or offers a distinctive specialty service, or is a small, complementary part of a business, that would add positively to the experience of living and working in the city; and
- There would only be four stores in the community that would be 5,000 square feet or greater.

4) Change the policy to be more free market based. The limitation number would be removed, but the criteria would remain:

Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. The council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:

- offers a distinctive specialty service, or is a small, complementary part of a business, that would add positively to the experience of living and working in the city; or is part of a project in a village or regional center that is not currently served.

Discussion Question

What changes to the city’s existing off-sale liquor policy, if any, does the city council desire?

Other Liquor Ordinance Changes

There are a number of recent state law changes with respect to liquor. Staff has summarized the changes that would improve administration of the liquor ordinances and remain current with law changes. The legislative changes provide the city council an opportunity to broaden liquor options in the community.

Administrative:
- Revise language to address limited liability companies and other forms of business organizations
- Revise residency requirement from seven-county metropolitan area to within 75 miles of city hall


- Revise application requirements to clarify what information is provided for purposes of background investigations
- Except publicly traded corporations from the requirement that individual owners must provide fingerprints and consent to background checks
- Require submission, at the time of application, of a business plan that addresses noise, security, sound management and other operational issues

2015 Legislative Changes:
- Technical changes to address renumbering of certain statutes relating to brew pub, small brewer and brewer taproom licenses
- New license for on-sale of intoxicating liquor by a microdistillery cocktail room
- New license for off-sale of intoxicating liquor by a microdistillery
- New license for Sunday off-sale of growlers by brew pubs and smaller brewers, with specified hours for sale.
- Add license fees for new forms of licenses

Staff intends to bring forward the changes listed above in ordinance form for city council consideration at an upcoming council meeting.

**Discussion Question**

*Does the city council have any feedback on the additional liquor ordinance changes?*

Through: Geralyn Barone, City Manager

Originator: Julie Wischnack, AICP, Community Development Director
Policy Number 6.1
Standards and Criteria for the Issuance of Liquor Licenses

Purpose of Policy: This policy establishes standards and criteria that the city council will apply in its consideration of on and off-sale liquor licenses. Further, this policy describes city council expectations for establishments holding liquor licenses within the city.

Introduction
This policy applies to all establishments having on or off-sale liquor licenses in the city of Minnetonka.

Standards
It is expected that all establishments holding liquor licenses will be operated in accordance with the following standards:

- **Type of Establishment**
The proposed liquor license should be considered in terms of the type of establishment being proposed and the propriety of having the establishment at the proposed location. On-sale liquor licenses will only be issued to establishments whose primary business is the sale of food. Consistent with this objective, city ordinance requires that at least 50% of the gross sales receipts of the establishment be from the sale of food.

- **Cooperation and Liaison with the City**
Liquor license holders are encouraged to interact and work in cooperation with the city staff regarding any problems, concerns, or questions relating to the operation of their establishments. Liquor license holders are also encouraged to participate in any public health or safety programs that are offered by the city.

- **Material Alterations of Establishments**
As required by ordinance, liquor license holders must report any internal changes to the establishment that materially enlarges, expands, reconfigures, or alters the site of the area connected with the consumption of liquor or the type of service offered by the establishment. Such changes must be reported to the community development director for review by the city council prior to beginning any alterations and before building permits can be issued.

  Material alterations include changes such as creation of a sit down bar or lounge area, expansion in size of the bar or lounge area, addition of a dance floor or entertainment area, or any other changes that alter the site or services offered in an establishment. This provision is not meant to include decorative or housekeeping improvements, or minor remodeling that does not affect the type of service offered by the establishment.

- **Conditioning Authority**
The city council or staff may, upon the issuance or renewal of a liquor license,
impose reasonable conditions upon the license to promote the provisions of this policy.

Criteria
The city council will consider the following criteria prior to issuing liquor licenses:

- **Off-Sale Licenses**
  Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010 are generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:
  a. offers a distinctive specialty service, or is a small, complementary part of a new business, that would add positively to the experience of living and working in the city; or
  b. is part of a redevelopment project in a village or regional center that is not currently served.

- **Land-Use/Zoning**
  The proposed liquor license must be consistent with the Guide Plan and zoned appropriately. It is expected that liquor establishments will be located in existing and planned commercial areas of the city. The liquor license application will be considered in conjunction with the site plan review.

- **Traffic**
  The proposed liquor license will be considered in terms of traffic generated by the establishment and the effect of such traffic on the surrounding street system. It is expected that liquor establishments will be located in areas able to accommodate the additional traffic generated by the liquor operation. The cost of an additional traffic analysis that might be required because of unusual circumstances with the location of the establishment will be paid by the applicant. This cost is not considered a part of the investigation or license fee.

- **Parking**
  The proposed liquor license will be considered in terms of the amount of parking needed for the establishment. It is expected that adequate on-site parking will be provided to accommodate all customers and employees. To determine whether adequate parking exists, the council will use the zoning ordinance as a guideline, and may consider other factors such as: the nature of the establishment, the type of development in which it will occur, the amenities (dance floor, entertainment, etc.) which will be offered by the establishment, and any other matter which might affect the parking requirements.
• Proximity to Schools, Churches, Youth Oriented Facilities, etc.

The proposed liquor license should be considered in terms of proximity of the establishment to schools, churches, and youth related and other public facilities. It is expected that liquor establishments will be located in areas that minimize the impact on such facilities.

City staff will submit a written report examining each of these criteria to accompany an on or off-sale liquor license application at the time of consideration by the city council.

Adopted by Resolution No. 84-7533
Council Meeting of July 23, 1984

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2010-030
Council Meeting of March 22, 2010
Policy Number 6.2  
Review of Liquor Violations, Best Practices Program, and Incentives to Discourage Underage Sales

**Purpose of Policy:** This policy establishes a uniform procedure for council review of liquor license violations, a best practices program, and incentives to discourage sales to underage buyers.

**Introduction**
This policy establishes the procedure for reviewing liquor license violations, a best practices program, and incentives to discourage sales to underage buyers.

**Procedure**
The following procedure should generally be followed for council review of liquor license violations that are not subject to presumptive penalties under this policy:

1. After a decision has been made to prosecute a liquor license violation, the chief of police or community development director will notify the council of the incident by confidential memo.

2. No further action will be taken until any criminal proceedings are concluded. At that time, staff will schedule the item for a council agenda.

3. The council will decide whether to schedule an administrative hearing. In most situations, the hearing should be scheduled. Even if the council believes that no sanctions are likely, the fact that the licensee is required to appear before the council stresses the seriousness with which the city considers any violation of the liquor ordinances. The council should select a hearing date with sufficient time to give the licensee at least 30 days’ notice.

4. Staff will personally serve notice of the hearing on a representative of the licensee at the licensed premises.

5. The hearing will be held in accordance with the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70. The city attorney will present the case against the licensee. The licensee will be given the opportunity to question any witnesses and to present testimony.

6. The council will consider the evidence and decide what action is appropriate. The council will consider the level of severity of violations and sanctions previously considered and imposed by the council when imposing any sanctions. The council will issue written findings on the alleged violation and an order imposing sanctions, if any.

7. Staff will serve notice of the council’s action on a representative of the licensee as soon as practicable after the hearing, in person or by registered mail.
Presumptive Penalties
The following procedure should generally be followed for council review of liquor license violations that are subject to the presumptive penalties established in attached Exhibit A:

1. After completion of the criminal charges, the community development director or designee will contact the license holder asking if the licensee will sign an admission of the facts of the alleged violation and an acceptance of the presumptive penalty established below. The licensee may choose to admit the facts but not accept the presumptive penalty. If the licensee contests either the facts or the presumptive penalty, the matter will be scheduled for a hearing before the council. The community development director may also schedule a hearing before the council if he/she believes there is a valid reason to deviate from the presumptive penalty.

2. If a hearing is requested, it will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§14.57 to 14.70. The council will issue written findings on the alleged violation and an order imposing sanctions, if any.

3. If the licensee and the community development director agree on the violation and the presumptive penalty, a written admission will be provided to the council with a proposed order. For first and second violations, the matter will be scheduled as part of the consent agenda, and it is expected that the council will generally issue the proposed order without discussion. Nevertheless, the council may choose to schedule the matter for special council review and action. The city must provide at least ten days’ notice to the licensee before this review is conducted. Any violations beyond the second violation must be scheduled for a hearing before the council.

Best Practices Program
The city council supports creation of a voluntary Best Practices Program. The program’s purpose is to encourage liquor license holders to voluntarily undertake practices that will help avoid sales to underage buyers. The details of the program will be developed by city staff in cooperation with the affected industry and reviewed by the city council. A licensed establishment that participates in the program will be subject to a modified schedule of presumptive penalties shown on the attached Exhibit A.

Incentives to discourage sales to underage buyers
The city council believes that all people who sell or deliver alcoholic beverages should check the identification of anyone who appears to be 40 years old or younger. If a liquor licensee wishes to make this a requirement in its establishment, the city will provide notices to be posted.

In addition, the city council wishes to encourage the individual who sells alcoholic beverages to check identification. Accordingly, for incidents that can be verified by the police department, the city will provide a reward of $50 to a person who checks identification, discovers an underage person attempting to purchase alcoholic beverages, and cooperates with the city in attempting to obtain a conviction. The payment of the reward will be subject to approval by the public safety director, who may deny the reward in his/her discretion. The reward will be paid from a separate account funded by the penalties imposed for liquor violations and such other funds as may be
necessary.

Adopted by Resolution No. 91-9283
Council Meeting of October 7, 1991

Amended by Resolution No. 99-144
Council Meeting of August 9, 1999

Amended by Resolution No. 2002-129
Council Meeting of November 12, 2002

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2015-023
Council Meeting of April 6, 2015
Exhibit A

Presumptive Penalties

The following are the presumptive penalties for the offenses listed.

Revocation on the first violation for the following types of offenses:

- Commission of a felony related to the licensed activity
- Sale of alcoholic beverages while license is under suspension

The following chart applies to these violations, to be counted over a three-year period:

- Sale to underage person
- Sale after/before hours
- Consumption after hours
- Illegal gambling, prostitution, adult entertainment on premises
- Sale to obviously intoxicated person
- Sale of liquor that is not permitted by the license

<table>
<thead>
<tr>
<th>License Type</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; Violation</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; Violation</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; Violation</th>
<th>4&lt;sup&gt;th&lt;/sup&gt; Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$750</td>
<td>$1500 + 1 day suspension</td>
<td>$2000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250 + 1 day suspension</td>
<td>$500 + 3 days suspension</td>
<td>$1000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, taproom or Off-sale, brewery (growlers)</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>
For establishments in the Best Practices Program:

<table>
<thead>
<tr>
<th>License Type</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; Violation</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; Violation</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; Violation</th>
<th>4&lt;sup&gt;th&lt;/sup&gt; Violation</th>
<th>5&lt;sup&gt;th&lt;/sup&gt; Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$350</td>
<td>$750</td>
<td>$1500 + 1 day suspension</td>
<td>$2000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250</td>
<td>$250 + 1 day suspension</td>
<td>$500 + 3 days suspension</td>
<td>$1000 + 6 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>On-sale, taproom or Off-sale, brewery (growlers)</td>
<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>
Best Practices Program

“PROJECT SMART CHOICE”

HELPING YOUNG ADULTS MAKE THE RIGHT CHOICE!

Please return the completed and signed agreement to:

Minnetonka Police Department
Attention: Captain Shelley Petersen
14600 Minnetonka Blvd.
Minnetonka, MN  55345
(952) 939-8545
Best Practices Program
"PROJECT SMART CHOICE"
HELPING YOUNG ADULTS MAKE THE
RIGHT CHOICE

1. PURPOSE

The City of Minnetonka Best Practices Program is a voluntary program offered to liquor license holders in the city. The program offers incentives to the licensees to undertake certain practices believed helpful in avoiding illegal sales to under-aged buyers.

2. BENEFIT OF PARTICIPATION

An establishment that participates in the Best Practices Program will receive reduced penalties if a violation occurs. The city council has established presumptive penalties that will be imposed for an illegal sale to an under-aged buyer. A participating establishment will be given the advantage of a different set of presumptive penalties that has a first step with reduced consequences. The following shows the presumptive penalties (violations are counted over a three-year period):

For non-participants:

<table>
<thead>
<tr>
<th>License Type</th>
<th>1st Violation</th>
<th>2nd Violation</th>
<th>3rd Violation</th>
<th>4th Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500 + 1 day</td>
<td>$1000 + 3 days</td>
<td>$2000 + 10 days</td>
<td>Revocation</td>
</tr>
<tr>
<td></td>
<td>suspension</td>
<td>suspension</td>
<td>suspension</td>
<td></td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$750</td>
<td>$1500 + 1 day</td>
<td>$2000 + 6 days</td>
<td>Revocation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>suspension</td>
<td>suspension</td>
<td></td>
</tr>
<tr>
<td>On-sale, 3.2 &amp; beer/wine</td>
<td>$350 + 1 day</td>
<td>$700 + 3 days</td>
<td>$1500 + 10 days</td>
<td>Revocation</td>
</tr>
<tr>
<td></td>
<td>suspension</td>
<td>suspension</td>
<td>suspension</td>
<td></td>
</tr>
<tr>
<td>Off-sale, 3.2</td>
<td>$250 + 1 day</td>
<td>$500 + 3 days</td>
<td>$1000 + 10 days</td>
<td>Revocation</td>
</tr>
<tr>
<td></td>
<td>suspension</td>
<td>suspension</td>
<td>suspension</td>
<td></td>
</tr>
<tr>
<td>On-sale, taproom or</td>
<td>$350 + 1 day</td>
<td>$700 + 3 days</td>
<td>$1500 + 10 days</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, brewery (growlers)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
For establishments in the Best Practices Program:

<table>
<thead>
<tr>
<th>License Type</th>
<th>1&lt;sup&gt;st&lt;/sup&gt; Violation</th>
<th>2&lt;sup&gt;nd&lt;/sup&gt; Violation</th>
<th>3&lt;sup&gt;rd&lt;/sup&gt; Violation</th>
<th>4&lt;sup&gt;th&lt;/sup&gt; Violation</th>
<th>5&lt;sup&gt;th&lt;/sup&gt; Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-sale, full</td>
<td>$500</td>
<td>$500 + 1 day suspension</td>
<td>$1000 + 3 days suspension</td>
<td>$2000 + 10 days suspension</td>
<td>Revocation</td>
</tr>
<tr>
<td>Off-sale, full</td>
<td>$350</td>
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<td>Revocation</td>
</tr>
<tr>
<td>On-sale, taproom or Off-sale, brewery</td>
<td>$350</td>
<td>$350 + 1 day suspension</td>
<td>$700 + 3 days suspension</td>
<td>$1500 + 10 days suspension</td>
<td>Revocation</td>
</tr>
</tbody>
</table>

3. PARTICIPATION

A licensee will be provided with paperwork as an option to participate in the program at the time a license is issued or may enroll anytime throughout the year. Each licensee’s participation can be customized to help fit their business. To participate in the program a licensee indicates in writing its election to do so. The participant must then undertake sufficient activities from the list below to equal a total of 100 points. The first four items totaling 60 points are mandatory; the remaining 40 points are earned by completing activities in the discretionary category. The city will randomly conduct an inspection at least once every two years at the business to ensure they have supporting documents for the criteria indicated on the agreement. Documentation would include proof of employee training, reward program, internal compliance check program and a policy and procedure manual.

**Mandatory (60 Points)**

<table>
<thead>
<tr>
<th>Points</th>
<th>Item Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>100% of servers and managers participate in a City approved training program within 60 days of hire.</td>
</tr>
<tr>
<td>20</td>
<td>A minimum of 75% of all servers and managers complete a City approved training program at least once every three years.</td>
</tr>
<tr>
<td>10</td>
<td>City-approved written policy and procedure manual signed by employees.</td>
</tr>
</tbody>
</table>
Identification checks required for anyone appearing to be 40 years of age or younger.

<table>
<thead>
<tr>
<th>Points</th>
<th>Item Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>City-approved internal compliance check program at least twice per year.</td>
</tr>
<tr>
<td>20</td>
<td>Program provided for rewarding employees who catch underage persons attempting to purchase.</td>
</tr>
<tr>
<td>20</td>
<td>Use of automated identification card scanner system.</td>
</tr>
<tr>
<td>20</td>
<td>Written agreement to contact the Community Development Director immediately upon violations instead of waiting for the formal proceedings.</td>
</tr>
<tr>
<td>10</td>
<td>Written agreements to work with the police department on secondary sales.</td>
</tr>
</tbody>
</table>

4. **MANDATORY CATEGORIES**

a. **Training**

A participant in the Best Practices Program must have a minimum of 75% of all servers and managers trained by a City approved training program at least once every three years. All servers and managers must participate in a training program within 60 days after being hired.

b. **Policy/Procedure Manual**

To be approved by the city, a participant’s policy and procedure manual must include the following matters:

1. Prohibition of sales to guests who are under-aged, impaired, or without acceptable identification.
2. Instructions about when to check identification and how to do it.
3. Instructions about when to say "No" and how to do it.
4. Consequences for employees of making an illegal sale.
5. Posting of notices prohibiting sale to under-aged guests.

c. **Identification Checks**

The establishment must check the identification of people appearing to be 40 years of age or younger who order alcoholic beverages. People who do not have identification cannot be served, regardless of their apparent age. The establishment must post signs announcing this policy. The signs will be provided by the city.
5. DISCRETIONARY CATEGORIES

a. Internal compliance checks

The establishment will conduct its own compliance checks to discover if its servers are appropriately checking for identification and refusing to serve under-aged buyers. The checks should be undertaken using an under-aged buyer believed to be unknown to the servers. The proposed buyer should not lie about his/her age and should show proper Identification if requested.

b. Reward program

The establishment will create a program to reward employees who successfully refuse to serve to an under-aged buyer. The rewards should be provided any time this occurs, not just during internal or official compliance checks. The rewards should be meaningful but may be in any form or amount chosen by the establishment.

c. Identification scanners

A number of vendors offer reasonably-priced scanning machines to check identification. The establishment will use the system for all purchases of alcoholic beverages.

d. Written agreement to meet

The establishment will sign an agreement to contact the Community Development Director when there has been an illegal sale to an under-aged buyer. The agreement will be in the form that is attached.

e. Written agreement on secondary sales

The establishment will sign an agreement to work with the Minnetonka Police Department to assist in preventing secondary sales. The agreement will be in the form that is attached.
business, operating in the City of Minnetonka with an
[on-sale / off-sale] liquor license, agrees to be a “Best Practices” establishment for the
calendar year 2015. We understand that we must complete the selected items below
equaling at least 100 points (including the first four mandatory items). Completion of the
items will be evaluated and measured on a calendar year basis.

<table>
<thead>
<tr>
<th>#</th>
<th>Selected</th>
<th>Points</th>
<th>Item Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Mandatory</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>✔</td>
<td>15</td>
<td>100% of servers attend City training program within 60 days of hire.</td>
</tr>
<tr>
<td>2.</td>
<td>✔</td>
<td>20</td>
<td>100% of all servers and managers attend City training program annually.</td>
</tr>
<tr>
<td>3.</td>
<td>✔</td>
<td>10</td>
<td>City-approved written policy and procedure manual signed by employees.</td>
</tr>
<tr>
<td>4.</td>
<td>✔</td>
<td>15</td>
<td>Identification checks required for anyone appearing to be 40 years of age or younger.</td>
</tr>
<tr>
<td></td>
<td><strong>Discretionary (must choose 40 points)</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
<td>20</td>
<td>City-approved internal compliance check program at least twice per year.</td>
</tr>
<tr>
<td>6.</td>
<td></td>
<td>20</td>
<td>Program provided for rewarding employees who catch underage persons attempting to purchase.</td>
</tr>
<tr>
<td>7.</td>
<td></td>
<td>20</td>
<td>Use of automated identification card scanner system.</td>
</tr>
<tr>
<td>8.</td>
<td></td>
<td>10</td>
<td>Written agreement to meet with Community Development Director immediately upon violations instead of waiting for formal proceedings.</td>
</tr>
<tr>
<td>9.</td>
<td></td>
<td>10</td>
<td>Written agreement to work with the police department on secondary sales.</td>
</tr>
<tr>
<td>10.</td>
<td></td>
<td>10</td>
<td>Attendance at 50% of Liquor License Advisory Committee meetings.</td>
</tr>
</tbody>
</table>

Date: ___________________  X ___________________

Position: ___________________
In order for a licensee to participate in the City of Minnetonka Best Practices program they must incorporate the following criteria into their company policy and procedure manual. The criteria listed below are considered valuable tools that all employees must embrace in order to achieve our goal of keeping alcohol out of the hands of young adults.

- Prohibition of sales to guests who are underage, impaired, or without acceptable identification.
- Instructions about when to check identification and how to do it.
- Instructions about when to say “NO” and how to do it.
- Consequences for employees of making an illegal sale.
- Posting of notices prohibiting sale to underage guests.

“PROJECT SMART CHOICE”

HELPING YOUNG ADULTS MAKE THE RIGHT CHOICE!
The City of Minnetonka "Best Practices" Program is a cooperative enforcement project aimed at preventing the use of alcohol by underage drinkers. Discouraging secondary sales of alcohol is an important facet of this program (purchase of alcohol by persons of legal age for distribution to underage drinkers).

______________________________ Business, operating in the City of Minnetonka with an [on-sale / off-sale] liquor license is a member of the Best Practices Program. As a program member, licensee agrees to cooperate with the City of Minnetonka Police Department to prevent a person of legal age from purchasing an alcoholic beverage on behalf of an under-aged buyer. This cooperation may include permitting undercover officers to operate on our premises.

Agreement dated this____________, day of ____________________, 20______.

For Best Practices Establishment

______________________________

Title:___________________________

"PROJECT SMART CHOICE"

HELPING YOUNG ADULTS MAKE THE RIGHT CHOICE!
Best Practices

“Community Development Agreement”

________________________________________ Business, operating in the City of Minnetonka with a liquor license, is a member of the Best Practices Program.

As a member of the Best Practices Program, we agree to contact the Director of Community Development immediately should we have a compliance check violation. In making this agreement, the licensee will meet with the city to address the administrative process without waiting for the criminal court process to be completed.

Agreement dated this ______, day of ______________________, 20__. 

Signature ______________________

Title _________________________
<table>
<thead>
<tr>
<th>City</th>
<th>Population (est. 2013)</th>
<th>Restriction/Location by Ordinance</th>
<th>Number of Liquor Stores</th>
<th>Stores per resident</th>
<th>Limit # Licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blaine</td>
<td>60,407</td>
<td>Mile radius separation</td>
<td>7</td>
<td></td>
<td>1 per 7,000 population</td>
</tr>
<tr>
<td>Brooklyn Park</td>
<td>78,373</td>
<td>None</td>
<td></td>
<td></td>
<td>1 per 4,000 population</td>
</tr>
<tr>
<td>Rosemout</td>
<td>22,666</td>
<td>300 feet from church or school</td>
<td>8</td>
<td>1: 2,833</td>
<td>No</td>
</tr>
<tr>
<td>St Louis Park</td>
<td>47,411</td>
<td>300 feet from religious institution or school, 1,000 feet from pawnshop, currency exchange, payday loan agency, firearms sales, or sexually oriented business</td>
<td>16</td>
<td>1: 2,963</td>
<td>No</td>
</tr>
<tr>
<td>Bloomington</td>
<td>86,319</td>
<td>300 feet from a school</td>
<td>23</td>
<td>1: 3,753</td>
<td>No</td>
</tr>
<tr>
<td>Minnetonka</td>
<td>51,368</td>
<td>None</td>
<td>11</td>
<td>1: 4,280</td>
<td>No</td>
</tr>
<tr>
<td>Eagan</td>
<td>65,453</td>
<td>200 feet from daycare, churches, schools</td>
<td>15</td>
<td>1: 4,296</td>
<td>No</td>
</tr>
<tr>
<td>Burnsville</td>
<td>61,434</td>
<td>Free standing building no closer than ¾ mile to another; exception Burnsville Center Retail Area.</td>
<td>12</td>
<td>1: 5,119</td>
<td>1 per 5,000 population</td>
</tr>
<tr>
<td>Plymouth</td>
<td>73,987</td>
<td>500 feet from any school</td>
<td>14</td>
<td>1: 5,284</td>
<td>No</td>
</tr>
<tr>
<td>Coon Rapids</td>
<td>62,103</td>
<td>Class A - Separate with no entrances from other business, minimum 2,500 square feet.</td>
<td>6</td>
<td>1: 10,350</td>
<td>Only 2 Class B per year issued.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Class B (malt liquor &amp; wines)- two mile radius, secondary to approved primary use which has minimum 50,000 square feet, liquor operations attached but separate entrance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Edina</td>
<td>49,376</td>
<td>Municipal</td>
<td>3</td>
<td>1: 16,458</td>
<td>Municipal</td>
</tr>
<tr>
<td>Apple Valley</td>
<td>50,201</td>
<td>Municipal</td>
<td>3</td>
<td>1: 16,733</td>
<td>Municipal</td>
</tr>
<tr>
<td>Lakeville</td>
<td>58,562</td>
<td>Municipal</td>
<td>3</td>
<td>1: 19,520</td>
<td>Municipal</td>
</tr>
</tbody>
</table>

Compiled November 2014
Policy Option
Minnetonka Liquor Stores
Ridgedale Allowed

Legend
- Off-sale, intoxicating liquors
- Schools in Minnetonka

1/4 mile
1/2 mile

City of Minnetonka
Where quality is our nature
Reference

Target Staff Report – Starting on Page 219 of the packet:

http://www.eminnetonka.com/images/meetings/citycouncil/5-18-2015_CC_Packetv1_0.pdf
Addendum  
Minnetonka City Council  
July 1, 2015 Study Session

1. Issuance of liquor licenses – council policy 6.1

Attached is a change memo from the community development director with updated maps and correspondence received after the study session packet was distributed.
Memorandum

To: City Council

From: Julie Wischnack, AICP, Community Development Director

Date: July 1, 2015

Subject: Change Memo for the July 1, 2015 Study Session

ITEM 1 – Issuance of liquor licenses, council policy 6.1

Following distribution of the packet, the following items were updated or received:

- Two maps were updated to include Groveland Elementary School
- Letter was received from Haskell’s
- Letter was received from Total Wine
Policy Option
Minnetonka Liquor Stores
Ridgedale Allowed

Legend
- Red dot: Off-sale, intoxicating liquors
- Blue dot: Schools in Minnetonka

1/4 mile
1/2 mile

City of minnetonka
Where quality is our nature
Hello Julie,
My name is John Farrell, III and my family owns Haskell's
I see that there is a discussion meeting coming up in Minnetonka and I thought I would forward some info that I found interesting.
We are going through the same "research" here in Maple Grove.
I hope this is helpful
Please feel free to contact me should you have any questions or concerns

Thanks

JOHN3

Ask me about our BOGO's!

John F. Farrell, III
Vice President; Sales and Merchandising
j3farrell@haskells.com
Cell# 612.269.0917
Maple Grove Super Cellar# 763.400.7888
www.haskells.com
Locally Owned and Family Operated Since 1934!!!
How Alcohol Outlets Affect Neighborhood Violence

Kathryn Stewart

www.resources.prev.org

Pacific Institute for Research and Evaluation is one of the nation's preeminent independent, nonprofit organizations merging scientific knowledge and proven practice to create solutions that improve the health, safety and well-being of individuals, communities, nations, and the world.
Introduction

Neighborhoods where bars, restaurants and liquor and other stores that sell alcohol are close together suffer more frequent incidences of violence and other alcohol-related problems, according to recent research by the Prevention Research Center and others. The strong connection between alcohol and violence has been clear for a long time – but now we know that this connection also relates to the location of places that sell alcohol.

Government agencies with authority over land-use and/or liquor licenses can help fight crime and blight and improve quality of life by controlling licenses to sell alcohol and the location of licensees. Governments can make rules that set minimum distances between alcohol outlets; they can limit new licenses for areas that already have outlets too close together; they can stop issuing licenses when a particular location goes out of business; and they can permanently close outlets that repeatedly violate liquor laws.

This paper presents some of the questions and answers about alcohol sales outlets and alcohol problems – especially the relationship between outlet location and violence.

What is the relationship between outlet density and violence?

A number of studies have found that in and near neighborhoods where there is a high density of places that sell alcohol, there is a higher rate of violence. That is, when bars, liquor stores, and other businesses that sell alcohol are close together, more assaults and other violent crimes occur.

Some of the important findings about outlet density and violence are described below.

- In a study of Camden, New Jersey, neighborhoods with alcohol outlet density had more violent crime (including homicide, rape, assault, and robbery). This association was strong even when other neighborhood characteristics such as poverty and age of residents were taken into account.\(^1\)

- In a study of 74 cities in Los Angeles County, California, a higher density of alcohol outlets was associated with more violence, even when levels of unemployment, age, ethnic and racial characteristics and other community characteristics were taken into account.\(^2\)

- In a six-year study of changes in numbers of alcohol outlets in 551 urban and rural zip code areas in California, an increase in the number of bars and off-premise places (e.g., liquor, convenience stores) was associated with increases in assault and other violent behaviors.\(^3\)
and grocery stores) was related to an increase in the rate of violence. These effects were largest in poor, minority areas of the state, those areas already saturated with the greatest numbers of outlets.³

- Violence committed by youth was more common in minority neighborhoods where there are many outlets that sell alcohol for consumption off the premises (such as liquor and convenience stores).⁴ This finding makes sense because underage drinkers are more likely to purchase alcohol in a store than in a bar or restaurant.

- In neighborhoods where there are many outlets that sell high-alcohol beer and spirits, more violent assaults occur.⁵

- Large taverns and nightclubs and similar establishments that are primarily devoted to drinking have higher rates of assaults among customers.⁶

A larger number of alcohol outlets and a higher rate of violence might be expected in poorer neighborhoods or in neighborhoods with a larger population young people. But as the research described above shows, even when levels of poverty and the age and the ethnic background of residents are taken into account, a high density of outlets is strongly related to violence regardless of a neighborhood’s economic, ethnic or age status.

All of the characteristics of alcohol outlet location can be important. It is easy to see that a town with many bars, restaurants, and stores that sell alcohol could be different from one that has fewer outlets. It is also easy to see that a neighborhood that has a bar on each corner and a liquor store on each block has a completely different environment than one that has few outlets or none at all. Other characteristics of the environment make a difference, too. For example, a strip of bars near a college campus presents a different environment from a similar density of bars in an upscale city center and also different from a similar density in a poor neighborhood. But in each case, some form of increased violence would be expected as compared to comparable areas with fewer alcohol outlets. A study of changes in outlet density over time as related to violence in California found that regardless of other neighborhood characteristics, an increase in outlets increased violence. In neighborhoods with a high minority population and low incomes, the effect was more than four times greater than for the statewide sample of communities.
What accounts for the relationship between outlet density and violence?

The research that has been done so far cannot pinpoint exactly why having more outlets in a small area seems to result in more violence. Various explanations have been proposed. One is that alcohol outlets can be a source of social disorder. A liquor store parking lot full of people drinking in their cars or on the curb and broken bottles littering the area outside a bar may send a message that this is a neighborhood in which normal rules about orderly behavior are not enforced. Another possible explanation is that a neighborhood with a large number of outlets acts as a magnet for people who are more inclined to be violent or more vulnerable to being assaulted. It is also possible that a high number of outlets results in a large number of people under the influence of alcohol – which makes them both more likely to be violent and less able to defend themselves.7 It is most probable that all of these factors come into play.

What is the relationship of outlet density to other alcohol problems?

The density of alcohol outlets has also been found to be related to other alcohol problems such as drinking and driving, higher rates of motor vehicle-related pedestrian injuries, and child abuse and neglect.89

How do governments regulate outlet density?

States and communities can regulate the number of bars, restaurants, and stores that sell alcohol in a given area. Sometimes the number and location of alcohol outlets is not limited at all. In some jurisdictions, the number of alcohol outlets is limited based on the population of the area – only so many outlets per thousand residents, for example. In other cases, the location of outlets is regulated – for example, some states or communities set minimum distances from schools or churches. Research increasingly finds, however, that geographic density is the key aspect of outlet location – that is, the distance between outlets. Where over-concentrations of outlets occur, greater problems arise.

Governments can use their regulatory powers to reduce violence by:

- Making rules that set minimum distances between alcohol outlets;
- Limiting new licenses for areas that already have outlets too close together;
- Not issuing a new license when a particular location goes out of business;
- Permanently closing outlets that repeatedly violate liquor laws (such as by selling alcohol to minors or to intoxicated persons or allowing illicit drug sales or prostitution on the premises).
What implications do these findings have for state and local licensing policies?

The research strongly suggests that limits on outlet density may be an effective means of reducing alcohol problems, especially violence. States and communities can use controls on the number and location of alcohol outlets as a tool for reducing violence, creating a safer and healthier alcohol environment, and improving the quality of life of a community.

What other alcohol policies are important?

Alcohol is a legal and widely consumed commodity; but it is also a commodity that can create a variety of serious health and social problems. Alcohol policies are an important tool for preventing these problems. Every day, states and communities make decisions about the sale of alcohol: who can sell it, when and where it can be sold, who it can be sold to. State and local laws and policies control many aspects of the system by which alcohol is manufactured, marketed, sold, purchased, and consumed.

Regulations serve a variety of purposes, for example, they help ensure that tax revenues are collected. But the regulation of the business of selling alcohol goes beyond economic concerns. Each element of the regulatory system provides opportunities for creating a healthier social environment with respect to alcohol. For example, regulations can prevent unsafe sales practices – such as prohibiting all-you-can-drink specials that encourage intoxication. Regulations can control advertising and promotion that appeals to minors and establish the minimum age and training qualifications for people who sell and serve alcohol. Each type of regulation has the potential to ensure that alcohol is consumed in a safe and healthy manner.

What aspects of alcohol availability can be regulated?

The regulation of alcohol sales can have an impact on the availability of alcohol – that is, how easy and convenient it is to buy. Some states and communities try to make alcohol less available by selling it only in limited places – for example, state liquor stores. Other communities sell it more freely – making it available in grocery stores, convenience stores, gas stations, laundromats, drive-through windows, and so forth. States and communities can also limit the hours and days of sale, and other aspects of the conditions of sale. The regulation of availability is important because research generally shows that when alcohol is more easily available, people drink more and more alcohol problems occur.
References

7 Gorman, et al. (2001).
Why shouldn't alcohol be sold in a free market?

It's a legal product.

Source: Public Action Management
By Pamela Erickson
June 16, 2015

Advocates who want to loosen or eliminate various alcohol regulations claim our laws are "antiquated, Byzantine, or from the Prohibition era." Their conclusion is that alcohol should be sold in our free market system just like any other legal product. How do we answer such claims? We need to help clarify the issue by stating that all products sold for human consumption must be regulated for public health and safety; that the US markets are highly regulated; that government interference is often needed to keep markets competitive and free of monopolistic domination. Finally we must be clear that some marketing practices can foster social problems. Here are some points that can help clarify these issues:

1. One way or another, all food, drink, drug, and tobacco commodities are regulated for public health and safety. Food, drugs and tobacco are all regulated by the federal Food and Drug Administration. Alcohol is regulated differently because after Prohibition, the 21 Amendment to the US Constitution gave states the responsibility to regulate alcohol. It is inconceivable that a commodity sold for human consumption would be completely unregulated. Safety of alcohol products is achieved through a three-tier system of licensing and sale. All manufacturers must be licensed and sell only to a licensed wholesaler who, in turn, can only sell to a licensed retailer. The wholesaler tracks all bottles and cans which enable them to act very quickly when there is a problem with a particular product.

2. The United States does not have a free market in the sense that anyone can sell anything, anywhere, at any time or place. The free market idea is a commercial system where prices are set by supply and demand, there are few barriers for new businesses to enter the market, and there is no government interference via taxes, price controls or barriers to market entry such as licensing. Clearly, our commercial markets have substantial government interference: taxes are levied by all levels of government on various products, many segments of business require some kind of license and often a government agency is designated to monitor compliance with a myriad of regulations. Just think about the banking, insurance and automobile industries. There are many regulations designed to protect the consumer from dishonest practices and to ensure safety. If alcohol were to become unregulated, it would be completely unique in our commercial environment.

3. Non-alcoholic drink products are often sold in situations that cannot be considered "free market" operations. Exclusive agreements are common for soft drink products. A restaurant will gain certain discounts and favors if they will exclusively sell one product over another. Often Coke products will not be sold in the same place as Pepsi products. In grocery stores, a supplier will generally pay a "slotting fee" for being
on the shelf; and, the best locations cost more (i.e. the shelves at eye level). These practices impact prices and restrict market entry for new products or products from a variety of companies. Exclusive arrangements and slotting fees are illegal for alcohol products by federal law and many state laws as well.

4. Government interference is often required to maintain some of the elements of a "free market" system. Our marketplaces do operate in an environment designed to allow supply and demand to set prices and to allow new businesses into a market. However, it often takes "government interference" for that to happen. For example, laws prevent price fixing arrangements. The United States has a body of market place regulations designed to prevent monopolies, fraud and unfair operations. Many of these regulations come under the heading of Anti-trust laws. They came about after the recognition that free markets often became dominated by one or more large organizations that would then have the ability to control price and access to market.

5. Regulations governing the alcohol market are designed to prevent business practices which create social problems. There are special problems with marketing alcohol that can create problems. Marketplace regulations help prevent these. Pricing is critical because deep discounts increase sales and consumption. While taxes keep the price reasonably high; other regulations reduce the opportunities to lower prices. These regulations include laws that prevent the sale of alcohol below cost, restrictions on coupons or other marketing devices designed to promote high volume drinking. Many states require all distributors to sell all products at the same price to all. This reduces the incentive to drastically lower prices to sell more products. It also makes it less likely that big operators can undercut small operators and eventually dominate the market.

Current Problems with Market Regulations:

1. Illegal payments: Despite the prohibitions against payment for things of value, shelf space and exclusive arrangements, these things do go on. Sometimes the supplier representative will find creative ways to disguise the payment. A few years ago, Arizona had a major problem with alcohol company representatives offering large sums of money to carry their products and not others. Payments were made by giving away things of value (gift cards, furniture, free cases, etc.). After a major investigation, things changed. Currently, there is an investigation in Massachusetts. These practices seem to go on for a long time before something happens.

2. Collapse of the three-tier system: The dominant beer company in the US has been trying to buy up retailers and distributors in several states. This would eliminate parts of our three-tier system. Anheuser-Busch InBev makes no secret about the fact that they would like to do their own distribution and currently own several distributorships. They have been thwarted in a few states which have passed laws prohibiting such ownership. But they also are buying up craft breweries, some of which have retail operations such as brew pubs.

3. Lack of enforcement: Most alcohol regulatory agencies have endured budget cuts and reduced enforcement resources. The federal TTB has also had staff reductions.
Thus, violations go on for some time and sometimes have to get so notorious that they cannot be ignored.

4. Failure to understand and value market regulations: A poor understanding of marketplace regulations and naiveté about the "free market" can lead to loss of valuable regulation. The regulations discussed in this newsletter are poorly understood and there are few good explanations in readily understood terms. It can be easy to buy into the "free market" argument. The typical "free market" arguments just don't add much to the debate over alcohol regulation. This is especially true because some free market advocates support government interference for other purposes such as economic development projects involving tax incentives and other benefits for a few businesses. Perhaps by noting other instances of government interference in the free market, there will be greater understanding of the need for government action when there is an important public purpose such as preventing alcohol harm.
Total Wine® Application for a Liquor License in Maple Grove

1. In Minnesota, the ability to sell liquor is a privilege, and no one has a right to sell intoxicating liquors. Cities have broad discretion to grant or deny a liquor license (ALJ report in the Bloomington Total Wine matter).

   There is no liberty or property right to a liquor license. *Country Liquors, Inc. v. City of Minneapolis*, 264 N.W.2d 821 (Minn. 1978).

   No citizen has in inherent or vested right to sell intoxicating liquors. *Bourban Bar & Café Corp. v. City of St. Paul*, 466 N.W.2d 438, 440 (Minn. App. 1991) citing *Sabes v. City of Minneapolis*, 120 N.W.2d 871, 875 (Minn. 1963).

   The ALJ report in the Bloomington case did not require approval in Bloomington. It was only a recommendation to the City of Bloomington. It only considered Total Wine® eligibility for a license in Bloomington. It did not consider any of the other social and economic factors that are considered by a City Council in consideration of a liquor license application. It was also one opinion of the moral character and good repute with which I respectfully disagree. If I had broken the laws as extensively as Total Wine has done and continues to do, I don’t think Maple Grove would or should have approved my liquor license.

2. The ill-effects of Total Wine on the public good – over-saturation of alcohol in the City and its effects, and Total Wine® disregard for the law including predatory pricing designed to damage competitors – are reasons why Maple Grove should deny the license.

   A prospective licensee must do more than overcome the disqualifiers in state and local law, it must demonstrate suitability for licensure; a license can be denied whenever its grant would appear contrary to the public interest. *Polman v. City of Royalton*, 249 N.W.2d 466, 467 (Minn. 1977). A city may deny a license based upon projected ill-effects of the licensee on the public good. *Country Liquors, supra* at 825. See also, *Linn v. City of Newport*, unpublished, 2013 WL 1707682 (Minn. App., Apr. 22, 2013).

   The ill-effects of over-saturation – dangers to the public from drunk drivers, increased access to alcohol by minors, increased health costs – are factors that must be considered by the City Council regardless of the eligibility of the applicant.

   Maple Grove approved Haskell’s liquor license in 2013 and added 20,000 square feet of retail liquor to the local market – a 50% increase from 40,000 square feet to 60,000 square feet. Adding Total Wine® 30,000 square feet would bring the total to about 90,000
square feet, and another 50% increase more than doubling off-sale alcohol over the last 18 months. [For comparison, Plymouth with a population of approximately 70,000, has 13 off-sale liquor licenses and a total of less than 50,000 square feet - .7 sf per person. Adding Total Wine in Maple Grove would mean retail liquor of 1.4 sf per person or DOUBLE that of Plymouth. I don’t have these statistics for every city but perhaps the City should take time to investigate and consider what appropriate limits should be.] There are currently 12 Maple Grove licensees within a 4 mile radius and 7 licensees within 1 mile of Total Wine’s proposed location. Total Wine brings no new products to the market as all products are available to all liquor stores under Minnesota law.

3. A license denial can be based on any credible evidence of the Applicant’s careless disregard of the laws regulating the sale of alcohol, including cases that were negotiated short of a criminal conviction or a sustained violation on the original charges. Godfather, Inc. v. City of Bloomington, 375 N.W.2d 68 (Minn. App. 1985), review denied (Dec. 13, 1985).

The evidence of Total Wine’s disregard of the law is clearly documented in the report of Bloomington City Attorney. Over $1 million in fines in multiple states and recent and ongoing sale of products below cost (predatory pricing) should not be ignored by the City Council and are reasons for denial. Why would Maple Grove approve the sale of such a highly regulated and controlled product by an organization that has shown such disregard of the law?

4. Minnesota liquor laws give municipalities, which feel most directly the impacts of alcohol abuse, wide discretion to grant or deny a liquor license and it is not arbitrary or capricious for there to be different standards for license issuance between individual cities even within the same metropolitan area. The fact that other suburban communities have granted the Applicant a license does not imply that a denial by Maple Grove would be without rational basis. (See Southern Wine and Spirits of America, Inc. v. Division of Alcohol and Tobacco Control, et al., 731 F.3d 199 (8th Cir. 2013))

The City has authority to deny a liquor license by virtue of its police power, and as such, any denial will be upheld under a rational-basis scrutiny where it has for its object the public health, safety, morality or welfare and where it is reasonably related to the attainment of those objectives. Kayo Oil Co. v. City of Hopkins, 397 N.W.2d 612, 614-15 (Minn. App. 1986).

5. Maple Grove should do what is best for Maple Grove and its residents not just approve every applicant that comes along that is otherwise eligible. Of recent note (last week) is the City of Chaska’s decision to defer consideration of
Target’s liquor license application specifically to evaluate the expected impact on family-owned and operated liquor stores in Chaska. Target also applied very recently in Minnetonka and has withdrawn their application because the City Council there is investigating what the impact would be and what they want for limitations on their licensing in the future. Has Maple Grove considered the effect on its 6 family-owned and operated liquor stores and on its community in general of approving Total Wine’s application? How will Maple Grove respond when Target or Cub applies for a liquor license? (Target has publicly stated that it plans to open 17 liquor stores in the metro area.) Clearly, the City of Maple Grove cannot continue to approve every applicant. Doesn’t the City need to have a well thought out strategy for limiting off-sale liquor?

6. It is easy but wrong to discount the objections of other Maple Grove liquor store owners as motivated purely by a fear of competition. Note that when there have been other public hearings for liquor licenses in Maple Grove, you have not heard objections from other owners like you are hearing now. When Haskell’s applied in late 2013, were there objections? No. Why? Because Haskell’s is a reputable, local, family-owned operator in the Twin Cities that plays fair by the rules. Likewise, when Costco, Whole Foods, Cost Plus World Market, and Trader Joe’s applied, you didn’t hear objections from other licensees because there was a sense that these companies respected the law and would play fair. There also was not the same over-saturation issue when they applied. The objections to Total Wine are driven by concerns about their unlawful business practices including predatory pricing and the ill-effects of extreme over-saturation they would cause in Maple Grove. Nobody can compete with someone who sells below cost because they can afford to lose money long enough to kill their competition only to raise prices later when competition is reduced. It is simply a fact that other stores will close if Total Wine comes to Maple Grove. Haskell’s store in Burnsville has already closed since Total Wine opened there late last year. There are about 50% more liquor stores for sale in the Twin Cities now than ever before since Total Wine entered the market and values have dropped dramatically. It could be only a short time before local, family-owned stores are a thing of the past. Is this what Maple Grove wants in its community?

7. In light of the above, what are the reasons to approve Total Wine’s application?
Mayor Schneider and Members of the City Council

As you consider the City’s guidelines for licensing off-premise alcohol retailers in your study session on July 1st, I hope that the comments and information in the attached letter will be helpful to you.

Please feel to contact me with any questions or comments.

Thank you for your consideration of Total Wine & More’s comments.

Sincerely,

Edward Cooper
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June 30, 2015

Via E-mail

Terry Schneider, Mayor
Dick Allendorf, Council Member
Patty Acomb, Council Member
Bob Ellingson, Council Member
Tony Wagner, Council Member
Brad Wiersum, Council Member
Tim Bergstedt, Council Member
Minnetonka City Council
City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Re: July 1, 2015 Study Session on Retail Liquor License Guidelines

Dear Mr. Mayor and Honorable City Council Members:

As you know, Total Wine & More (“Total Wine”) has applied for an off-sale retail liquor license near the Ridgedale Shopping Center. As you reconsider the City’s guidelines for licensing of off-sale retail liquor establishments in your study session on July 1, we hope that the comments and information below will be helpful to you. In particular, we hope that some of the information we share below will help give you the soundest possible basis for making policy decisions that benefit the citizens of Minnetonka.

Stores that Draw from Entire Regions are Different from Neighborhood Stores

There was a time when most liquor stores were small and drew their customers primarily (if not almost entirely) from the immediate surrounding neighborhood. In that era, cities sometimes limited the number and location of stores with an eye toward ensuring that stores were dispersed adequately to address demand in each neighborhood of the city but only stores that were absolutely necessary were licensed.
Times have changed. For instance, Total Wine stores, like large-format stores in other retail sectors, are not designed primarily to draw from the immediate neighborhood and compete with existing neighborhood stores. In fact, in Total Wine’s Minnesota stores, 65 percent of sales are to customers who travel more than five miles to get to Total Wine.

In a Minnetonka store, Total Wine expects that far more than 65 percent of its customers will be from outside Minnetonka. The Ridgedale area is close to the northern, western and eastern boundaries of Minnetonka and designed as a regional shopping area to take advantage of the high traffic levels on the 394/12 corridor. Like other large retailers in the Ridgedale area, a store like Total Wine will have the effect of bringing “new” money into the city rather than redistributing money that is already within the city. In addition to bringing in new money itself (and using that money to pay salaries to Minnetonka employees, rent to a Minnetonka landlord, etc.), large-format liquor stores such as Total Wine create a win-win relationship with other local businesses – Total Wine attracts customers from outside Minnetonka who are likely to shop at other Ridgedale establishments and, in turn, those establishments attract customers who are likely to shop at Total Wine.

Because large-format, regional draw stores such as Total Wine have an economic and social impact far different from a neighborhood store, a policy appropriate for neighborhood stores may not be appropriate for such large-format, regional draw stores. There are a number of possible ways to address this. One is to adopt flexible guidelines that take into account these economic effects. Another is to follow the example of Burnsville and craft a different set of guidelines for the area immediately around Ridgedale, as Burnsville has done for the area surrounding Burnsville Center. A third would be to create a new guideline category for large-format regional draw stores. Other alternatives are also possible.

**It’s About the Quality of the Stores, Not the Number of the Stores**

One question the Council will likely debate is whether an additional store or two is likely to have any adverse affect on the City, such as increase in petty crime near the store. The answer to that question is simple – it depends on the store. Actual experience in other Minnesota municipalities does not give any reason to believe that granting an additional license will inevitably create crime or social problems.

Did the addition of the Haskell’s “Superstore” in Maple Grove create crime or social problems there? Did the addition of Total Wine in Roseville, Burnsville, Woodbury, and Bloomington create crime or social problems there? If you talk with police chiefs, city staff, Chamber of Commerce officials, or others in those municipalities, we feel certain you will find that the answer in all cases is “No.”
Once again, a one-size-fits-all guideline or policy may not be the best answer here. An additional small neighborhood liquor store with casual ownership and management may create problems, while the addition of a store like Total Wine, with the best record in the country concerning sales to minors or inebriated persons, will not. The best way to figure out whether granting a license application is likely to create public safety issues is to look at the track record of the particular applicant concerning the key public safety issues of sales to minors and sales to inebriated persons.

**Regional Stores Have Regional Impact, Whether or Not Located in Minnetonka**

Regional destination stores like Home Depot, Lowes, IKEA, Nordstrom’s and Total Wine affect Minnetonka residents and businesses regardless of whether those stores are actually located in Minnetonka. Minnetonka residents shop at these stores either in Minnetonka or elsewhere. Minnetonka businesses must compete with these stores whether or not they are located in Minnetonka. Because Minnetonka will feel the effects of regional stores in any case, the policy question for Minnetonka is whether the city will also get all of the benefits that come from those large retailers by ensuring that their stores are located in Minnetonka.

The City of Burnsville had precisely this discussion in connection with its policy concerning location of liquor stores and the application of Total Wine for a liquor retailer license there. After examining the issue carefully, the Burnsville City Council took the view that Burnsville Center had been set up as a regional shopping center, that regional entry of large-format liquor stores such as Total Wine or the Haskell’s superstore in Maple Grove would occur whether or not such a store was located in Burnsville, and that it was a benefit to the Burnsville community to have such stores located in its regional shopping center. We believe that the same policy view makes sense in Minnetonka.

Minnetonka is a wonderful residential and business community. We appreciate the care this Council is taking in carefully examining these policy issues in light of today’s realities and the best interests of Minnetonka’s citizens. If we can provide any other helpful information or input, we stand ready to do so.

Very truly yours,

Edward Cooper
Vice President, Public Affairs & Community Relations
Notes

• What items do you think the council should consider when speaking about liquor licensing in Minnetonka?
  • Thought policy was a good policy in 2010 and is generous.
  • Believe that it is adequately served.
  • Traffic concerns - congestion and total traffic.
  • No current outpouring of demand.
  • Proximity and crime issues.
  • When a store is desperate, then they might sell to minors. Failure of a store can create more problems.
  • We have tried that experiment, 12 is now 11 stores.
  • Not necessarily more demand.
  • Microbrews and other types of new businesses which has broadened the alcohol choices.
  • Total square foot of new applications, not supported by population.
  • Consider other communities in your discussion - other business interests, not just Minnetonka, economics don’t work.
  • Oversaturation and distribution of alcohol regardless of on/off sale - individual rules and regulation.
  • Historically, Minnetonka always has been interested in controlling liquor, best management program.
Notes

- Most of the stores are owned by Minnetonka or local residents and take special care to ensure compliance.
- Cities are studying what other cities are doing.
- Policies are being tested. Public interest studies are occurring.
- Already a controlled substance, there are not a typical business.
- A lot of cities on the bubble of number issue.
- More attention in the industry because of the other types of licenses that are now available. License complications, confusion, types of license.
- Discussion now about consumption, colleges, etc. greater awareness of public safety side of liquor (access to product)
Notes

• New applicant felt they met the policy.
• Applicant, market forces and trade area (Ridgedale).
• Quality of stores is important not quantity (applicant).
• Crime, that is a local experience issue.
• Population not growing ☐ Ridgedale is a major regional pull (applicant). Ridgedale is an area where a concentration could occur.
• Applicant feels there is room for everybody ☐ draws from a larger ring, but have differences from neighborhood stores.
• Liquor store has closed in Burnsville, after Total Wine opened.
Notes

• Other license types have other issues. Selling substance, not a product.
• Property taxes way higher; independent retailers can’t hire attorneys to challenge these issues (Wine Shop/Spasso square foot vs Target)
• Ask what we want the community to look like too many liquor stores, everywhere.
• Look at who you are representing, 80% of people don’t use this product not everyone consumes alcohol (spending a lot of time for a small number of people)
• Wine/products over the internet. It has become more prevalent so many more choices need more?