

CHAPTER XIISale, Consumption and Display of Alcoholic Beverages

1200.01. Provisions of the State Law adopted. The provisions of Minnesota State Statute, Chapter 340A, relating to the definitions of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

1200.03 Licenses Required. Subdivision 1. General requirement. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the City of Hopkins, any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of eight kinds:

- on-sale
- temporary on-sale
- off-sale
- club
- on-sale wine
- 3.2 % malt liquor on-sale
- 3.2 % malt liquor off-sale
- temporary 3.2% malt liquor on-sale
- on-sale brewer taproom
- off-sale brewer malt liquor

1200.05. Subdivision 1. On-sale licenses. On-sale licenses shall be issued only to hotels, clubs, restaurants, Bowling Centers and to exclusive liquor stores, which exclusive liquor stores were in existence on July 1, 1999, and shall permit on-sale of liquor only. Ten on-sale licenses may be granted in a year.

Subd. 2. After July 1, 1999, no on-sale liquor license shall be issued to an establishment unless the applicant makes a bona fide estimation that at least fifty percent of the gross receipts of the establishment during its first year of business will be attributable to the sale of food.

Subd. 3. Each establishment granted an on-sale liquor license under this section shall have the continuing obligation to have at least fifty percent of gross receipts from the establishment during the preceding business year attributable to the sale of food.

Subd. 4. For the purpose of this requirement, “establishment” shall include the food and beverage portion of a multi-service establishment. Financial records for the food and beverage portion must be maintained separately from the records of the remainder of the establishment.

Subd. 5. For the purpose of this section, “sale of food” shall include gross receipts attributable to the sale of food items, soft-drinks and nonalcoholic beverages. It shall not include any portion of gross receipts attributable to the nonalcoholic components of a plain or mixed alcoholic beverage, such as ice, soft-drink mixes or other mixes.

Subd. 6. The Council may require the production of such documents or information, including, but not limited to, books, records, audited financial statements, or pro forma financial statements as it deems necessary or convenient to enforce these provisions. The Council may also obtain its own audit or review of such documents or information, and all licensees shall cooperate with such a review, including prompt production of requested records.

Subd. 7. In addition to other remedies that it may have available, the Council may place the license of any on-sale liquor licensee on probationary status for up to one year, when the sale of food is reported, or found to be, less than fifty percent of gross receipts for any business year. During the probationary period, the licensee shall prepare any plans and reports, participate in any required meetings, and take other action that the Council may require to increase the sale of food.

Subd. 8. The above provisions shall not apply to any business having an on-sale liquor license prior to July 1, 1999 and will not affect the future renewals of the on-sale licenses for such businesses. These provisions shall not apply to new licenses issued for existing establishments, due to sale or transfer of ownership of these establishments, unless the establishment has been closed and without a liquor license for at least 90 days. These provisions shall also not apply to any new on-sale liquor license for a hotel, bowling alley or theater.

1200.07 On-Sale wine licenses. Subdivision 1. On-sale wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.404. Subdivision 5, and shall permit only the sale of wine not exceeding 24 percent alcohol by volume, for consumption on the licensed premises only. (Amended by Ord. 2014-1072)

Subd. 2. The holder of an on-sale wine license who is also licensed to sell 3.2 percent malt liquors at on-sale may sell intoxicating malt liquors at on-sale without an additional license. (Amended by Ord. 2014-1072)

1200.09 Temporary on-sale licenses. Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the state liquor act.

1200.11. Off-sale licenses. Off-sale licenses shall be issued to exclusive liquor stores and shall permit off sales of liquor only. Eight off-sale licenses may be granted in a year. No off-sale license shall be issued to an establishment holding an on-sale liquor license except those on-sale and off-sale licenses that are presently existing in such combination. The sale of such an establishment shall not prevent the new owners from applying for an off-sale liquor license. At any time hereafter that any such existing combined on-sale and off-sale licenses are for any reason suspended, canceled, or not applied for, no further re-issuance or renewal of such licenses shall thereafter be allowed or issued in combination. (Amended Ord. 2014-1071)

1200.12. Subdivision 1. No new off-sale liquor license or off-sale 3.2 percent malt liquor license shall be granted for any building within 350 feet of any elementary or secondary school; daycare center; or religious institution. Furthermore, no new off-sale liquor license or off-sale 3.2 percent malt liquor license shall be granted for any building within 350 feet of any existing exclusive off-sale liquor store, pawn shop, licensed currency exchange, or any business licensed under Section 1160 or 1165 of the Hopkins City Code (Adult businesses.) For purposes of this ordinance, this distance shall be a horizontal measurement from the nearest existing property line of any church site, school site, day care site, or the site of any existing exclusive off-sale liquor store, pawn shop, licensed currency exchange, or any business licensed under Section 1165 of the Hopkins City Code, to the nearest property line of the proposed off-sale liquor site or off-sale 3.2 percent malt liquor site. (Added by Ord. 2003-897; Amended Ord. 2008-997)

Subd 2. This Section shall not be applicable to the issuance of a new license required for the sale of a business with an existing off-sale liquor license or off-sale 3.2 percent malt liquor license provided that:

- a. the new license is of the same type as the old license;
- b. the new license is issued for the same location as the old license; and
- c. there is no more than a fourteen consecutive day discontinuance of the licensed business activity at the licensed location. (Added Ord. 2008-997)

1200.13. Special club licenses. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations that have been in existence at least three years.

1200.15. Special license for Sunday sales. A special license authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, Bowling Center or club which has facilities for serving at least 30 guests at one time, and which has an on-sale license. A special license authorizing sales on Sunday may be issued to a license holder of an On-Sale Brewer Taproom license for the operation of a taproom on Sundays. (Amended by Ord. 2014-1072)

1200.17. 3.2 percent malt liquor, on-sale. An on-sale 3.2 percent malt liquor license may only be issued to drugstores, restaurants, hotels, clubs, bowling centers where food is prepared and served for consumption on the premises and in bona fide clubs, and shall permit the sale of beer for consumption on the premises only.

1200.19. 3.2 percent malt liquor, off sale. Subdivision 1. A 3.2 percent off-sale malt liquor license may be issued to permit the sale of beer in the original packages for removal from and consumption off the premises only.

Subd 2. This Section shall not be applicable to the issuance of a new license required for the sale of a business with an existing off-sale liquor license or off-sale 3.2 percent malt liquor license provided that:

- a. the new license is of the same type as the old license;
- b. the new license is issued for the same location as the old license; and
- c. there is no more than a fourteen consecutive day discontinuance of the licensed business activity at the licensed location. (Added Ord. 2008-997)

1200.20 Exemptions from the requirement to obtain 3.2 percent malt liquor licenses. (Amended Ord. 2008-997)

- a. Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain a 3.2 percent malt liquor on-sale and may sell 3.2 percent beer at on-sale without further license.
- b. Any person licensed to sell intoxicating liquor at off-sale shall not be required to obtain a 3.2 percent malt liquor off-sale license and may sell 3.2 beer without further license.

1200.21. Temporary 3.2 percent malt liquor. A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale and consumption of 3.2 percent malt liquor. The issuance of such license shall be made in accordance with city policy.

1200.22. Brewer. A person who manufactures malt liquor for sale.

1200.23 On-Sales Brewer Taproom License. Subdivision 1. Taproom licenses shall be granted only to a brewery licensed under Minn. Stat. Section 340A.301 for any on sale of malt liquor produced by brewer for the consumption of the premises of or adjacent to one brewery location owned by

the brewer. The only alcoholic beverage that may be sold or consumed on the premises shall be malt liquor produced by the brewer. (Added Ord. 2013-1063, Amended by Ord. 2015-1096)

1200.24 Off-Sale Brewer Malt License. Subdivision 1. Brewer Malt licenses shall be granted only to a brewery licensed under Minnesota Stat. Section 340A.301. A brewer off-sale malt liquor license may be issued with the approval of the commissioner, to a brewer and subject to the requirements of Minnesota Stat. Section 340A.301 and the following conditions:

Subd. 2. Off-Sale Brewer Malt License holders are allowed Sunday off-sale of growlers of malt liquor produced and packaged by the brewer on the licensed premises. No Sunday sales are allowed before 10 a.m. or after 10 p.m. Off-sale Sunday sales are prohibited on Easter Sunday. For all other days, the hours of the sales are the same as intoxicating liquor off-sales pursuant to provisions of Minnesota Statutes Section 340A.504, subd. 4.

(Added Ord. 2013-1063, Amended by Ord. 2015-1096)

1200.25 Theaters. For the purposes of this section, “theater” shall be limited to those establishments as defined in Minnesota Statutes, Section 340A.101, subdivision 27a, except that no alcohol may be served in any establishment that is open to the general public and which allows admittance for persons who are less than 21 years of age. Alcohol may only be sold to those patrons who have purchased a ticket to attend a live performance at the theater on the day of the sale.

Subd. 2. The City may issue an on-sale intoxicating liquor license, an on-sale wine license, or an on-sale malt liquor license to a theater. A license issued under this paragraph authorizes sales on all days of the week to persons attending events at the theater.

Subd. 3. Theater sales. A theater that holds an on-sale intoxicating liquor, wine or 3.2 percent malt liquor license may only sell alcohol between the hours of 6:30 p.m. and 11:30 p.m. on all days of the week.

(Added Ord. 2016-1104)

1200.26. Application for License. A person desiring any license for either on-sale or off-sale of liquor, wine, or 3.2 percent malt liquor must file an application in writing with the clerk in the form prescribed by the commissioner and with such additional information as the council may require.

1200.27. Payment. Each application for a license shall be accompanied by payment in full of the license fee and the investigation fee. Each license shall be issued for a period of one year except that if the application is made during the license year, then the license fee shall be one-fourth of the fee for each three months or part thereof for the remainder of the license year.

1200.28. Investigation/Granting of License. The council shall cause investigation to be made of all representation set forth in the application. No license shall be issued, or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. Opportunity shall be given at a regular or special meeting of the council to any person to be heard for or against the granting of any license. After such investigation, the council shall grant or refuse such license in its discretion provided that no off-sale, wine, or club license shall become effective until it, together with the security furnished by the applicant has the approval of the commissioner. The fee for such investigation shall be set from time to time by resolution and shall be payable by the applicant whether or not the license is granted.

1200.30. Refunds. No refund of any fee shall be made except as authorized by statute.

1200.32. Proof of Financial Responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liability under the statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety. Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include all applicants for wine and 3.2 percent malt liquor licenses. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409. Temporary liquor license applicants shall provide aggregate limits of one million dollars.

1200.34. Payment of Taxes and other Fees. Subdivision 1. No License shall be granted for operation on any premises upon which state or city taxes, assessments or other financial claims of the state or city are delinquent and unpaid. Any existing license may be suspended or revoked until such time that delinquent or unpaid tax or assessment, or other financial claim is paid in full. At such time that all delinquent or unpaid taxes or assessments or other financial claims are paid in full, a revoked or suspended license shall be re-issued for the remainder of the license period without additional application or payment by the licensee.

Subd. 2 Notwithstanding the foregoing, if the delinquent taxes, assessments or other financial claims are against a landowner, and the licensee is a tenant of the landowner and has no financial interest in the landowner, then the City Council may, but shall not be required to, grant a license to an applicant so long as the applicant is not delinquent on any taxes, assessments or other financial claims as set forth herein.

1200.36. Posting. Licensed premises shall have the license posted in a conspicuous place therein at all times.

1200.38. Renewal of License. Subdivision 1. Time for Renewal. Applications for renewal of an existing license shall be made at least sixty days prior to the date of the expiration of the license. If in the judgment of the City Council, good and sufficient cause is shown by any applicant for his failure to file a renewal application within the time prescribed, the Council may never the less receive such application.

Subd. 2. License Renewal Investigation. All renewal applications, which reflect a change of status, may be investigated for verification of the matters set forth in the renewal application, which are updated since the last application. If at the time of renewal, a change of the manager of the premises is identified, the licensee shall pay a supplemental investigation fee which will be set from time to time by resolution and shall be payable whether or not the license is granted.

1200.40. Transfer of License. Subdivision 1. No license shall be transferable between persons or to a different location. Any change in individual ownership or substitution of partners will require application for a new license. For a corporation, a transfer or sale of more than 10% of the shares will also require a new license. A transfer of stock without prior council approval and an investigation is a ground for revocation of the license

Subd. 2. New licenses required under this section will require the full investigation fee to be paid by the applicant. The license fee will be pro-rated according to Section 1200.25. (Amended by Ord. 2003-899)

1200.42. Conditions of license. Subdivision 1. General rule. Licenses granted under this section shall be granted subject to the following conditions of this subsection, and subject to all other ordinances of the city applicable thereto and to all regulations promulgated by the commissioner applicable thereto.

Subd 2. Conduct. Every licensee shall be responsible for the conduct of his licensed place of business and for conditions of sobriety and order therein. No licensee shall keep, possess, or operate, or permit the keeping, possession, or operation of, on the licensed premises, or in any room adjoining the licensed premises, any slot machine, dice, or any gambling device or apparatus, nor permit any gambling therein, except that which is approved by state statute, nor permit the licensed premises or any room in the same, or in any adjoining building, directly or indirectly under its control to be used by prostitutes or other disorderly persons.

Subd. 3. Sales prohibited. No intoxicating wine, liquor or malt beverage shall be sold or furnished for any purpose whatever to a person under the age of 21 years, or to a habitual drunkard, or to a person under guardianship, or to any person obviously intoxicated, or to any of the persons to whom sale is prohibited by statute.

Subd. 4. Character. A license may not be issued to a person not a citizen or resident alien of the United States and a licensee shall be of good moral character and repute. A license may not be issued to any person who shall hereafter be convicted of any willful violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor, nor to any person whose license under this section shall be revoked for any willful violation of any such laws or ordinances.

Subd. 5. Training. Each licensee must have at least one representative attend all mandatory liquor license training seminars conducted by the city. The representative need not be the same person each time but must hold a position of responsibility in either the ownership or management of the licensee. Any licensee who fails to meet this requirement may be charged an administrative penalty. (Amended by Ord. 2005-959)

1200.44. Additional conditions of intoxicating liquor licenses and the operation of licensed premises. Subdivision 1. The following acts or conduct on licensed premises deemed and decreed to be contrary to public welfare and morals and, therefore, no on sale liquor license shall be operated, maintained or allowed at, in or on any premises where such acts or conduct are permitted or tolerated. No licensee shall employ, permit or encourage any person or employee in or on any such licensed premises in or under any of the following circumstances:

- a. while such employee or person is unclothed or in such attire, costume or clothing as to expose any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals; or
- b. while such employee or person encourages or permits the wear or use of any device or covering exposed to view which resembles or simulates the breast, genitals, anus or other portion of the body above mentioned; or
- c. while such employee or person permits or encourages any person to perform or simulate the performance of sexual intercourse, sodomy, oral copulation, flagellation, masturbation/bestiality or other acts prohibited by law; or

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- d. while such employee or person encourages or permits any person to use artificial devices or inanimate objects to depict any of the prohibited activities herein described; or
- e. while such employee or person encourages or permits any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person; or

- f. while such employee or person encourages or permits any of the behavior, conditions or acts hereinabove set forth by any other person or persons.

Subd. 2. Whenever the term "person" is used in this section, it is intended to mean and shall include but not be limited to, any host, hostess, other employer or employee, customer or spectator and all provisions of this section shall apply equally to both sexes.

1200.46. Hours of operation. Subdivision 1. The provisions of Minnesota Statutes Section 340A.504 with reference to the hours of sale are hereby adopted and made a part of this chapter as fully set out herein. When a licensee has made application to the City of Hopkins and the Commissioner of Alcohol and Gambling for extended hours, and the application has been approved by the Hopkins City Council and the Commissioner of Alcohol and Gambling, and all fees have been paid to the City of Hopkins and the Commissioner of Alcohol and Gambling, said licensee may sell intoxicating liquor, wine, or 3.2 percent malt liquor between 1:00 a.m. and 2:00 a.m. on Friday, Saturday and Sunday. (Amended by Ord. 2015-1096)

(The following paragraph has exclusions)

1200.48. Evacuation of Licensed Premises. Subdivision 1. No licensed premises named in an ON SALE Intoxicating Liquor License shall remain open for business more than 15 minutes after the closing time stated in section 1200.46, Subd. 2 or section 1246, subd. 4 of this Ordinance. It is unlawful for a licensee or an employee of a licensee to permit any person, other than a licensee or an employee, to remain on said licensed premises more than 15 minutes after closing time. It is also unlawful for any person, not a licensee or employee of a licensee, to remain on said licensed premises more than 15 minutes after closing time.

Subd. 2. No licensee or employee of a licensee shall consume alcohol or permit the consumption of alcohol on the premises after closing as stated in section 1200.46, Subd. 2 and Subd. 4. (Added by Ord. 2003-899) (Amended by Ord. 2003-908)

1200.50. License Revocation or Suspension. MN Statute 340A.415, License Revocation or Suspension, is adopted by reference. Amended by Ord. 98-819

1200.54. Presumptive Civil Penalties. Subdivision 1. Purpose. The purpose of this section is to establish a standard by which the City Council determines the length of license suspensions and the propriety of revocations, and shall apply to all licensed premises under this Chapter. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exist substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the State or City to prevent the sale of alcohol to minors. When deviating from these standards, the Council will provide written findings that support the penalty selected.

Subd. 2. Minimum Penalties for Violations. The minimum penalties for convictions or violations must be presumed as follows:

- a. The following violations require revocation of the license on the first violation:
- Commission of a felony related to the licensed activity.
 - Sale of alcoholic beverages while license is under suspension.

Best Practices Establishments. Establishments entering into an agreement with the Police Department as a Best Practices Establishment will use the Best Practices grid.

- b. The following violations are subject to the penalty grid described below:
- Sale of alcoholic beverage to under-age person.

- Sale of alcoholic beverage to obviously intoxicated person.
- Sale/consumption of alcoholic beverage before/after hours.
- Illegal gambling on premises.
- Permit person to leave premises with alcoholic beverage (on-sale allowing off-sale).
- Violations of City Ordinances pertaining to fire, building, or health codes.

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1 st Violation	2 nd Violation	3 rd Violation	4 th Violation
\$500 plus 4 days suspension	\$1,000 plus 6 days suspension	\$2,000 plus 10 days suspension	Revocation

BEST PRACTICES PENALTY GRID:

1 st Violation	2 nd Violation	3 rd Violation	4 th Violation	5 th Violation
\$500	\$1,000 plus 5 days suspension, stayed	\$1,500 plus 5 days suspension	\$2,000 plus 10 days suspension	Revocation

Subd. 3. Violations would be handled by an administrative hearing with the Police Chief or his/her designee with the presumptive penalty given to license holders. License holders have the right to request a hearing before the City Council if not in agreement with the presumptive penalty. The Police Chief also has the right to request a hearing before the Council if he/she believes there exists substantial reason making it appropriate to deviate from the presumptive penalty. If the Police Chief and the licensee agree on the presumptive penalty, these will be reported to the City Council in a staff report. (Amended by Ord. 2005-959)

Subd 4. Suspensions. Suspensions will commence on the same day of the week as the occurrence of the violation. Unless specified, numbers indicate consecutive days' suspension during regular business hours.

Subd. 5. Computation of Time. Multiple violations are computed by checking the time period of the three years immediately prior to the date of the most current violation. (Amended by Ord. 2005-959)

1200.57. Other Penalties. Nothing in this section shall restrict or limit the authority of the Council to suspend up to 60 days, revoke the license, assess a civil fine not to exceed \$2,000, to impose conditions or take any adverse action in accordance with law, provided that the license holder has been afforded an opportunity for a hearing. (Added by Ord. 2004-938)

This section amended by Ord. No. 2003-897; Ord. No. 2003-899; Ord. No. 2004-918; Ord. No. 2004-938; Ord. No. 2005-957; Ord. No. 2005-959; Ord. No. 2008-997; Ord. No. 2010-1023; Ord. No. 2013-1063, Ordinance 2014-1072, Ordinance 2015-1096