



Ordinance Number 101

Regulating the Licensing and Sale of
3.2% Malt Liquor (On Sale and Off Sale) and
Intoxicating Liquor (On Sale and Off Sale)

Approved by the Board of Commissioners on 7/18/2023

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Ordinance Number 101

Regulating the Licensing and Sale of 3.2% Malt Liquor (On Sale and Off Sale) and Intoxicating Liquor (On Sale and Off Sale)

The County Board of Dakota County Ordains:

Section 1. Purpose

The purpose of this Ordinance is to implement Minnesota Statutes, Chapter 340A as it pertains to issuing of on-sale and off-sale licenses by the County for the sale of intoxicating liquor and 3.2% malt liquor.

Section 2. Provisions of State Law Adopted

The provisions of Minn. Stat. Chapter 340A, with reference to the definition of terms, application for a license, granting of a license, conditions of a license, restrictions on consumption, provisions on sales conditions of bonds of licenses, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2% malt liquor are hereby adopted and made a part of this Ordinance as if fully set forth herein, except as modified herein.

Section 3. Definitions

Subdivision 1. "Alcoholic beverage" is any beverage containing more than one-half of one percent alcohol by volume.

Subdivision 2. "Intoxicating liquor" is ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subdivision 3. "3.2% malt liquor" is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subdivision 4. "Off-sale" is the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subdivision 5. "On-sale" is the sale of alcoholic beverages for consumption on the licensed premises only.

Subdivision 6. "Package" is a sealed or corked container of alcoholic beverages.

Subdivision 7. "Minor" shall include any person who is under the legal age for consumption of any alcoholic beverage, intoxicating liquor, or 3.2% malt liquor.

Subdivision 8. "Commissioner" is the Minnesota Commissioner of Public Safety.

Section 4. License Required

No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

Section 5. Application

Subdivision 1. Any person desiring any of the licenses governed by this Ordinance shall first make an application to the Board of County Commissioners of Dakota County by filing with the Dakota County Public Service and Revenue for presentation to said County Board an application on oath in writing, on forms approved by the County Board. The application shall set forth with reasonable accuracy the name and place of residence of the applicant, the exact location of the place in which the applicant proposes to carry on the business and whether or not he/she has at any time previous to the date been engaged in said business or in the business of selling foodstuffs in the County of Dakota and if so, when and where. Said application shall be signed by the applicant in person or by an officer of the corporation seeking said license. When received by the Dakota County Public Service and Revenue, the application shall be placed on file and the name of the applicant shall also be placed on file.

Subdivision 2. Licenses issued to corporations shall be valid only so long as there is no change in the officers, charter, articles, bylaws or ownership of the corporation unless such change is approved by the County Board, in which event said license shall continue in force until the end of the then-current license year. Licenses issued to associations or partnerships shall be valid only so long as there is no change in the partnership or association agreement or the ownership of said association or partnership unless such change is approved by the County Board, in which event said license shall continue in force until the end of the then-current license year. Corporations, partnerships, or associations holding licenses shall submit written notice to the Dakota County Public Service and Revenue of any such changes described herein on or before thirty (30) days prior to the effective date of any such change. In the case of a corporation, the licensee shall notify the Dakota County Public Service and Revenue when a person not listed in the applications acquires an interest which, together with that of a spouse, parent, brother, sister, or child, exceeds five percent (5%) and shall give all information about said person as is required of a person pursuant to the provision of this Ordinance.

Section 6. Persons Eligible

No retail license may be issued to:

- (a) A person who has not attained the legal age for purchase and consumption of alcoholic beverages; or
- (b) A person who, within five years of the license application, has been convicted of a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of intoxicating or 3.2% malt liquor; or
- (c) A person who has had an intoxicating liquor or 3.2% liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporation license, as a purchaser or otherwise, in the premises or business conducted thereon, or to a corporation,

partnership, association, enterprise, business, or firm in which any such person is in any manner interested; or

(d) A person who:

- i. Has had a license or registration issued pursuant to chapter 342 or section 151.72, subdivision 5b, revoked; or
- ii. Has been convicted of an offense under section 151.72, subdivision 7; or
- iii. Has been convicted under any other statute for the illegal sale of marijuana, cannabis flower, cannabis products, lower-potency hemp edibles, hemp-derived consumer products, or edible cannabinoid products and the sale took place on the premises of a business that sells intoxicating liquor or 3.2 percent malt liquor to customers;

(e) A person not of good moral character and repute; or

(f) A person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

Section 7. On-Sale and Off-Sale 3.2% Malt Liquor Licenses

Subdivision 1. County Board

The County Board may issue off-sale, on-sale, or combination licenses for the sale of 3.2% malt liquor within its jurisdiction. 50% of the retail license fee is to be paid to the township board.

Subdivision 2. Temporary On-Sale Licenses

- (a) A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale of 3.2% malt liquor.
- (b) The temporary on-sale license may authorize the sale of 3.2% malt liquor in any school or school building.
- (c) Temporary licenses shall be subject to the terms set by the County Board and may be issued for no more than 1 - 4 consecutive days.

Subdivision 3. Who May Be Issued On-Sale 3.2% Malt Liquor Licenses

On-sale 3.2% malt liquor licenses may be issued only to drugstores, restaurants, hotels, clubs, and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.

Subdivision 4. Duration of 3.2% Malt Liquor License

All retail 3.2% malt liquor licenses must be issued for one year, except that for the purpose of considering the time of expiration of license in general, licenses may be issued for a shorter time, in which case a pro-rata license fee must be charged.

Subdivision 5. Exemption

- (a) Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale license under this Section 7 and may sell 3.2% malt liquor beverages at on-sale without further license.
- (b) Any person licensed to sell intoxicating liquor at off-sale shall not be required to obtain an off-sale license under this section and may sell 3.2% malt liquor beverages at off-sale without further license.

Section 8. Intoxicating Liquor: ON-SALE LICENSES

Subdivision 1. County Board

The County Board may issue an on-sale intoxicating liquor license to qualified persons within the area of the County that is unorganized or unincorporated, to a restaurant or club with the approval of the Commissioner of Public Safety.

Subdivision 2. Temporary On-Sale Licenses

- (a) A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale license for the sale of intoxicating liquor.
- (b) Temporary licenses shall be subject to the terms set by the County Board and may be issued for no more than 1 - 4 consecutive days.
- (c) A county agricultural society may be issued a temporary on-sale license for no more than 7 consecutive days for the sale of intoxicating liquor at the county fair.

Subdivision 3. Wine License

- (a) The County may issue an on-sale wine license with the approval of the Commissioner of Public Safety to a restaurant having facilities for seating at least 25 guests at one time.
- (b) A wine license so issued under (a) above permits the sale of wine of up to 14 percent alcohol by volume for consumption with the sale of food.

Section 9. Intoxicating Liquor: OFF-SALE LICENSE

Subdivision 1. County Board

- (a) The County Board may issue an off-sale license with the approval of the Commissioner of Public Safety to exclusive liquor stores located within the unorganized territory of the County.
- (b) The County Board may issue an off-sale license with the approval of the Commissioner of Public Safety to an exclusive liquor store in a town exercising powers under Minn. Stat. § 368.01, Subd. 1 or Subd. 1a.
- (c) The County Board may issue a combination off-sale and on-sale license, with the approval of the Commissioner of Public Safety, to restaurants within a town that may not exercise powers under Minn. Stat. § 368.01, Subd. 1 or Subd. 1a.

Subdivision 2. License Requirements

- (a) Town Board Resolution Required.
No license may be issued under paragraphs (b) and (c) above unless the town board adopts a resolution supporting the issuance of the license.
- (b) Hearing.
No license may be issued under this subdivision unless a public hearing is held on the issuance of the license.
- (c) Notice.
Notice must be given to all interested parties and to any city located within three miles of the premises proposed to be licensed.
- (d) Bases for County Board Decision.
At the hearing, the County Board will consider testimony and exhibits presented by interested parties and may base its decision to issue or deny a license upon the nature of the business to be conducted and its impact upon any municipality, the character and reputation of the applicant, the propriety of the location, and the written recommendation of the Sheriff and County Attorney as required at Minn. Stat. § 340A.410, Subd. 2, and this Ordinance.

Section 10. Consumption and Display Permits

Subdivision 1. Permit Required

No business establishment or club in Dakota County which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the Commissioner.

Subdivision 2. Additional Authorization

A holder of a consumption and display permit under this section who wishes to allow the consumption and display of intoxicating liquor between the hours of 1:00 a.m. and 2:00 a.m. must obtain authorization to do so from the Commissioner.

Subdivision 3. Local consent required

A permit issued under this section is not effective until approved by the County Board.

Subdivision 4. Permit fees

In order to obtain the consent of the County Board for a consumption and display permit, the business establishment or club shall pay the fee as established by the County Board of Commissioners.

Section 11. Intoxicating Liquor: Sunday On-Sale

Subdivision 1. County Board

The County Board may issue an intoxicating liquor Sunday on-sale license to a restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license but only if authorized to do so by the voters of the town at an election held on the day of the annual election of township officers.

Subdivision 2. Duration

A license issued pursuant to subdivision 1 shall be for a period of one year.

Section 12. License Restrictions (General): On-Sale and Off-Sale Licensing of Intoxicating Liquors and 3.2% Malt Liquors

Subdivision 1. Town Consent

The County will not issue a retail license to sell any alcoholic beverages within an organized town unless the applicant can show by a certified copy of a resolution that the governing body of the town has consented to the issuance of the license.

Subdivision 2. Written Recommendation of Sheriff and County Attorney Required

- (a) The County will not issue or renew a license to sell on-sale or off-sale intoxicating liquor or 3.2% malt liquor until the County Board has received a written recommendation from the Sheriff and County Attorney stating that to the best of their knowledge the applicant is eligible to be licensed under Minn. Stat. § 340A.402 and Section 6 of this Ordinance.
- (b) The County Board shall consider the recommendations of the Sheriff and County Attorney, the character and reputation of the applicant, and the nature and location of the business prior to the issuance of any license.
- (c) A copy of the written recommendations of the sheriff and county attorney must be provided to the Town Board if the Town Board's consent is required before the issuance of a license.

Subdivision 3. License Limited to Space Specified

The retail license to sell on-sale and off-sale intoxicating liquor and 3.2% malt liquor are only effective for the compact and contiguous space specified in the approved license application.

Section 13. License Restrictions: On-Sale and Off-Sale Intoxicating Liquor Licenses

Subdivision 1. Every person desiring a license for "on-sale" shall file a verified application in writing with Dakota County Public Service and Revenue in the form to be prescribed by the Commissioner of Public Safety and with such additional information as the County Board of Dakota County may require. A surety bond shall accompany such application for a license. The application shall be accompanied by a corporate surety bond in the sum of \$3,000.00 to be approved as to legal form by the Attorney for the County of Dakota and as to sufficiency by the County Board of Dakota County or in lieu of such bond, cash or bonds of the United States of a market value of \$3,000.00 may be posted.

Subdivision 2. Every person desiring a license for "off-sale" shall file a verified application in writing with Dakota County Public Service and Revenue in the form to be prescribed by the Commissioner of Public Safety and with such additional information as the County Board of Dakota County may require. A surety bond shall accompany such application for a license. The application shall be accompanied by a corporate surety bond in the sum of \$1,000.00 to be approved as to legal form by the Attorney for the County of Dakota and as to sufficiency by the County Board of Dakota County; or in lieu of such bond, cash or bonds of the United States of a Market value of \$1,000.00 may be posted.

Subdivision 3. All such bonds under subdivisions 1 and 2 above shall be conditioned as follows:

- (a) That a licensee will obey the law relating to such licensed business.
- (b) That a licensee will pay to the County when due all taxes, license fees, penalties, and other charges provided by law.
- (c) That in the event of any violation of the provisions of any law relating to the sale of "on-sale" or "off-sale" intoxicating liquor, such bond shall be forfeited to the County of Dakota.
- (d) That the licensee will pay to the extent of the principal amount of such bond any damages for death or injury caused by or resulting from the violation of any provisions of law relating thereto, and in such cases recovery under this subdivision may be had from the surety on its bond. The amount specified in such bond is declared to be a penalty, the amount recoverable to be measured by the actual damages; provided, however, that in no case shall such surety be liable for any amount in excess amount of the bond. It shall be unlawful to make any false statement in an application.

Subdivision 4. The names and addresses of all persons, other than the applicant, who have any financial interest in the business, buildings, premises fixtures, furniture, stock in trade: the nature of such interest, the amount thereof, terms for payment or other reimbursements. This shall include, but not be limited to, any lessee, lessors, mortgagees, mortgagors, lenders, lienholders, and trustees.

Subdivision 5. Investigation

- (a) The County shall on initial application for an on-sale intoxicating liquor license or on an application for a transfer of an existing license conduct a preliminary background and financial investigation of the applicant. The application must be in the form prescribed by the Bureau of Criminal Apprehension and with any additional information as the County Board requires. If the County Board determines or if the Bureau of Criminal Apprehension on its own initiative determines that a comprehensive background and investigation of the applicant is necessary, the Bureau of Criminal Apprehension will complete the investigation. In addition, an investigation may be required prior to the renewal of an existing on-sale license when the

County Board deems it in the public interest.

An investigation fee of One Hundred Fifty and no/100ths Dollars, (\$150.00), shall be charged to new applicants by the County if the investigation is conducted within the State. The maximum fee for an investigation conducted in the state is limited by statute. If the investigation is conducted outside the state, the fee will be the actual cost not to exceed \$10,000.

- (b) No license may be issued, transferred, or renewed if the results of the investigation show, to the satisfaction of the County Board that issuance, transfer, or renewal would not be in the public interest.

Subdivision 6. Limitations on Issuance of licenses to One Person or Place

No more than one off-sale intoxicating liquor license may be directly or indirectly issued to any one person or for any one place in the county. To determine whether an applicant has an "interest" in any one or more place(s) that already has an off-sale intoxicating liquor license shall be defined as follows:

- (a) Includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, and a person who receives money from time to time directly or indirectly from a licensee, in the absence of consideration and excluding gifts or donations, has a pecuniary interest in the retail license; and
- (b) Does not include loans; rental agreements; open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures, supplies to the establishment; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or ten percent or less interest in any other corporation holding a license.
- (c) In determining whether an "interest" exists, the transaction must have been bona fide, and the reasonable value of the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this subdivision must be considered.

Subdivision 7. Licenses Prohibited in Certain Areas

No license to sell intoxicating liquor may be issued within the following areas:

- (a) Where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;
- (b) Within 1,000 feet of an institution under the supervision or control, in whole or in part, of the Commissioner of Human Services or the Commissioner of Corrections;
- (c) In a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under Minn. Stat. § 340A.416, or within one-half mile of any such town or municipality.
- (d) Within 1,500 feet of any public school that is not within a city.

Subdivision 8. License in Connection With Premises of Another

An intoxicating liquor license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this chapter. This subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a noncitizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this chapter.

Subdivision 9. Off-Sale Licenses Where 3.2% Malt Liquor Is Sold

An off-sale intoxicating liquor license may not be issued to a place where 3.2% malt liquor is sold for consumption on the premises.

Subdivision 10. Drugstores

No intoxicating liquor license may be issued to a person operating a drugstore unless the person has operated it for at least two years or has purchased a drugstore that has been in continuous operation for two or more years.

Subdivision 11. License Transfer

A license may be transferred with the consent of the County Board and the Commissioner of Public Safety. Where a license is held by a corporation, a change in ownership of ten percent or more of the stock of the corporation must be reported in writing to the authority who issued the license within ten days of the transfer. A fee of \$100.00 shall be charged by the County to process any transfer of a liquor license under this Ordinance.

Section 14. License Renewals

Application for the renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license and shall be made in such abbreviated form as the County Board may approve. If, in the judgment of the County Board, good and sufficient cause is shown by any applicant for his failure to file for a renewal within the time provided, the County Board may, if the other provisions of this Ordinance are complied with, grant the application.

Section 15. Hours and Days of Sale

Subdivision 1. 3.2% Malt Liquor

No sale of 3.2% Malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday.

Subdivision 2. Intoxicating Liquor; On-sale

No sale of intoxicating liquor for consumption on the licensed premises may be made:

- (a) Between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (b) After 2:00 a.m. on Sundays, unless licensee has obtained an on-sale Sunday liquor license pursuant to **Section 11**; or
- (c) Before 8:00 a.m. on Sundays or after 2:00 a.m. on Mondays.

Subdivision 3. Sales after 1:00 a.m. License Fee

No Licensee may sell intoxicating liquor or 3.2% malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the Licensee has obtained a permit from the Commissioner. Application for the permit must be on a form the Commissioner prescribes. Permits are effective for one year from the date of issuance. Applicants shall pay the fee for this special permit set forth in Minn. Stat. § 340A.504.

Subdivision 4. Intoxicating Liquor; Off-Sale

No sale of intoxicating liquor may be made by an off-sale licensee:

- (a) On Sundays except between the hours of 11:00 a.m. and 6:00 p.m.;
- (b) Before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;
- (c) On Thanksgiving Day;
- (d) After 8:00 p.m. on Christmas Eve, December 24;
- (e) On Christmas Day, December 25;
- (f) Or otherwise as prohibited by law.

Section 16. Liability Insurance

Except where the provisions of Subdivision 3 below apply,

Subdivision 1. Insurance required

- (a) No retail license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by Minn. Stat. § 340A.801. (Civil Liability).
- (b) At a minimum, the applicant must show the following (under Minn. Stat. § 340A.409 Liability Insurance):
 - i. A certificate that there is in effect for the license period an insurance policy or pool providing at least Fifty Thousand and no/100ths Dollars, (\$50,000.00), of coverage because of bodily injury to any one person in any one occurrence, One Hundred Thousand and no/100ths Dollars, (\$100,000.00), because of bodily injury to two or more persons in any one occurrence, Ten Thousand and no/100ths Dollars, (\$10,000.00), because of injury to or destruction of property of others in any one occurrence, Fifty Thousand and no/100ths Dollars, (\$50,000.00), for loss of means of support of any one person in any one occurrence. One Hundred Thousand and no/100ths Dollars (\$100,000.00) for loss of means of support of two or more persons in any one occurrence, and \$50,000.00 for other pecuniary loss of any one person in any one occurrence, and \$100,000.00 for other pecuniary loss of two or more persons in any one occurrence. An annual aggregate policy limit for dram shop liability of not less than \$310,000.00 per policy year may be included in the policy provisions;
 - ii. A bond of a surety company with minimum coverages as provided in clause (i));
 - iii. A certificate of the Minnesota Commissioner of Management and Budget that the licensee has deposited with the State Treasurer One Hundred Thousand and no/100ths Dollars, (\$100,000.00), in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of One Hundred Thousand and no/100ths Dollars, (\$100,000.00);
 - iv. This subdivision does not prohibit an insurer from providing the coverage required by this subdivision in combination with other insurance coverage.

Subdivision 2. Minnesota Joint Underwriting Association

An Applicant unable to obtain the insurance coverage required under Subdivision 1 above may provide evidence of coverage provided by the Minnesota Joint Underwriting Association.

Subdivision 3. Insurance Not Required

Subdivision 1 does not apply to licensees who by affidavit establish that:

- (a) They are on-sale 3.2% malt liquor licensees with sales of less than Twenty-five Thousand and no/100ths Dollars, (\$25,000), of 3.2% malt liquor for the preceding year;
- (b) They are off-sale 3.2% malt liquor licensees with sales of less than Fifty Thousand and no/100ths Dollars, (\$50,000), of 3.2% malt liquor for the preceding year;
- (c) They are holders of on-sale wine licenses with sales of less than \$25,000 for wine for the preceding year.
- (d) They are holders of temporary wine licenses issued under the law; or
- (e) They are wholesalers who donate wine to an organization for a wine tasting conducted under section 340A.418 or 340A.419.

Section 17. Fees

Subdivision 1. Fee Schedule

Fees will be assessed in accordance with the schedule approved by the County Board.

Subdivision 2. Refunds With the Consent of the County Board

With the consent of the County Board, a pro rata share of an annual license fee for a retail license to sell intoxicating or 3.2% malt liquor, either on-sale or off-sale, may be refunded to the licensee or to the licensee's estate if:

- (a) The business ceases to operate because of destruction or damage;
- (b) The licensee dies;
- (c) The business ceases to be lawful for a reason other than license revocation; or
- (d) The licensee ceases to carry on the licensed business under the license.

Section 18. Majority Vote Required

A majority vote of the County Board shall be required for the granting of a license.

Section 19. Delinquent Taxes, Assessments

No license shall be granted or renewed, for operation on any premises, on which taxes, assessments, or other financial claims of the County are delinquent and unpaid.

Section 20. Posting of License

The license shall be posted in a conspicuous place in the licensed establishment at all times.

Section 21. Licensee Responsibility

The act of any employee of the licensed premises authorized to sell or serve intoxicating liquor shall be deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by the Ordinance equally as well as the employee.

Section 22. Compliance Checks and Inspections

Subdivision 1. All licensed premises shall be open to inspection during regular business hours. During this time, any law enforcement officer may conduct compliance checks to ensure licensed premises are in compliance with the provisions of this Ordinance or regulation.

Subdivision 2.

- (a) In order to conduct a compliance check, a law enforcement officer shall engage minors to enter the licensed premises to purchase alcoholic beverages, intoxicating liquors, or 3.2% malt liquors. Minors engaging in compliance checks shall be supervised by designated law enforcement officers. Minors who participate in compliance checks shall not be guilty of the unlawful purchase, attempted purchase, or the unlawful possession of alcoholic beverages, intoxicating

liquors, or 3.2% malt liquor when such items are obtained in conjunction with a compliance check.

- (b) No minor who participates in a compliance check may attempt to use a false identification misrepresenting that person's age.
- (c) Nothing in this section shall prohibit other compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

Section 23. Business Records

The business records of the licensee, including Federal and State tax returns, shall be available for inspection by the duly authorized representatives of the County Board at all reasonable times.

Section 24. Expiration Date of Intoxicating Liquor Licenses

All intoxicating liquor licenses issued by the County expire on December 31st of each year. All 3.2% malt liquor licenses expire on December 31st of each year.

Section 25. Restrictions regarding Purchase and Consumption

Subdivision 1. Service to Minors Prohibited: Proof of Age Restrictions

- (a) No licensee under this Ordinance shall sell, serve, or furnish 3.2% malt liquor, wine, or intoxicating liquor to a minor, and no licensee under this Ordinance shall permit any minor to consume 3.2% malt liquor, wine, or intoxicating liquor on the licensed premises. Proof of age for purchasing or consuming intoxicating liquor, wine, or 3.2% malt liquor may be established only by:
 - i. A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, including the photograph and date of birth of the licensed person;
 - ii. A valid military identification card issued by the United States Department of Defense; or
 - iii. In the case of a foreign national, from a nation other than Canada, by a valid passport.
- (b) In a prosecution for any violation of any provision in this Ordinance regarding minors, it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon one of the above-cited types of identification.

Subdivision 2. Employees Under the Age of 18

No license under this Ordinance shall permit a person under eighteen (18) years of age to serve or sell 3.2% malt liquor, wine, or intoxicating liquor. A licensee under this Ordinance, except an off-sale licensee, may employ a person under the age of eighteen (18) years, provided that person does not serve, sell, or furnish 3.2% malt liquor, wine, or intoxicating liquor, and provided that the employment of that person does not violate any state or federal child labor law or regulation. No person under eighteen (18) years of age shall be employed in an off-sale establishment licensed under this Section.

Section 26. Penalties

Subdivision 1. Sanctions

The County Board may impose a sanction for violation of this Ordinance, as follows:

	Best Practices Licensee A licensee who has enrolled in the Best Practices Program, under subdivision 2, shall be subjected to the following penalties:	Non-Best Practices Licensee A licensee who has NOT enrolled in the Best Practices Program, under subdivision 2, shall be subjected to the following penalties:
First Violation Any licensee found to have violated this ordinance for the first time within a twenty-four (24) month period.	<ul style="list-style-type: none"> • \$500.00 fine, • Suspension of license or permit for up to 30 days, • Revocation of license or permit, or • Any combination thereof. 	<ul style="list-style-type: none"> • \$750.00 fine, • Suspension of license or permit for up to 60 days, • Written policy requiring identification checks for anyone appearing to be 40 years or younger, • Revocation of license or permit, or • Any combination thereof.

<p>Second Violation Any licensee found to have violated this ordinance two (2) times within a twenty-four (24) month period.</p>	<ul style="list-style-type: none"> • \$1,000.00 fine, • Suspension of license or permit for up to 30 days, or • Revocation of license or permit, or • Any combination thereof. 	<ul style="list-style-type: none"> • \$1,500.00 fine, • Suspension of license or permit for a minimum of 5 days up to a maximum of 60 days, • Written policy requiring identification checks for anyone appearing to be 40 years or younger, • Proof of ongoing training of new and current alcohol-serving employees, • All alcohol-serving employees have completed the responsible server program approved by the Dakota County Sheriff within 30 days of beginning employment, • Inspection of records to verify compliance, • Revocation of license or permit, or • Any combination thereof.
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<p>Third Violation Any licensee found to have violated this ordinance three (3) times within a twenty-four (24) month period.</p>	<ul style="list-style-type: none"> • \$1,500.00 fine, • Suspension of license or permit for up to 30 days, or • Revocation of license or permit, or • Any combination thereof. 	<ul style="list-style-type: none"> • \$2,000.00 fine, • Suspension of license or permit for a minimum of 10 days up to a maximum of 60 days, • Written policy requiring identification checks for anyone appearing to be 40 years or younger, and • Proof of ongoing training of new and current alcohol-serving employees, • All alcohol-serving employees have completed the responsible server program approved by the Dakota County Sheriff within 30 days of employment, • Inspection of records to verify compliance, • Revocation of license or permit, or • Any combination thereof.
<p>Fourth Violation Any licensee found to have violated this ordinance four (4) times within a twenty-four (24) month period.</p>	<p>Revocation of License</p>	<p>Revocation of License</p>

Best Practices Business is a licensee who has enrolled in the Best Practices Program pursuant to this Subdivision and who maintains compliance with such program. Subdivision 2.

The Best Practices Program is a voluntary program offered to Dakota county liquor licensees. The Program offers incentives to licensees to undertake certain practices believed to help prevent sales to minors. Participating licensees have the advantage of a different set of civil penalties. A Licensee who chooses to participate in the Program must enroll in the Program annually and maintain compliance with the required and elective Program items. The licensee is required to maintain documentation of compliance, through written or electronic policies, logs, and reports as applicable. To enroll a licensee must indicate in writing to the Dakota County Public Service and Revenue its intent to enroll and its chosen elective items. The licensee must choose elective items to equal 60 points.

Required Items:

- Written policy requiring identification checks for anyone appearing to be 40 years or younger.
- Proof of ongoing training of new and current alcohol-serving employees.
- All alcohol-serving employees complete the responsible server program approved by the Dakota County Sheriff within 30 days of beginning employment.
- Consent to an inspection of records to verify compliance with written policy and training requirements.

Elective Items:

Points

- 25 *Business uses an automated ID card scanner system that is integrated into the register system.
- 20 Display - in public view - a notice stating, "It's the law – Be prepared to show proof of age" and County-issued notice that the licensee is participating in the "Dakota County Best Practices Program".
- 20 Minimum age 21 for employees selling and or serving alcohol.
- 15 No failed compliance checks within the prior 12-month licensure period pursuant to Section 25 Restrictions regarding Purchase and Consumption.
- 10 *Internal policy requiring identification checks for every alcohol sale regardless of apparent age.
- 10 Internal employee reward and recognition programs to reward any employee who catches any underage customer attempting to purchase alcohol.
- 10 Internal programs to train for compliance with Section 25 Restrictions regarding Purchase and Consumption.
- 15 Provide Dakota County Public Service and Revenue with documentation of internal training times and dates before training is held. By choosing this elective the licensee consents to inspection outside of regular business hours for the sole purpose of determining whether the training actually took place.

*Licensee may choose only one of the two starred electives.

Subdivision 3. Other Prosecution

Nothing in this section shall prohibit the County Attorney from seeking prosecution for any violation of this Ordinance, or from enforcing any other applicable state or federal law or regulation in addition to or instead of any civil enforcement remedy that may be sought under this Ordinance.

Section 27. Hearing and Appeals

Subdivision 1.

- (a) Generally. Following receipt of notice of suspension of license or a notice of revocation of license, a license or permit holder may request a hearing before an appointed hearing officer by the County Board. A request for a hearing shall be made by the license or permit holder in writing and filed with Dakota County Public Service and Revenue within ten (10) days of the mailing of the notice of suspension or revocation of license. Following receipt of a written request for a hearing, the license or permit holder shall be afforded an opportunity before the hearing officer.
- (b) Hearings. If a license or permit holder so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the license or permit holder. The hearing shall be conducted in accordance with Minn. Stat. §14.57 to 14.69, the Administrative Procedure Act. Findings. The hearing officer shall prepare written findings to the County Board stating whether a violation occurred and the recommended penalty to be imposed under Section 25, a copy of which shall be provided to the license or permit holder. If the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings and recommendations shall be submitted to the County Board, and a copy provided to the license or permit holder.
- (c) Decision. Before the County Board renders its final decision, the written findings of the hearing officer shall be made available to the license or permit holder for at least ten (10) days, and an opportunity afforded to the license or permit holder to file exceptions and present argument to a majority of members of the County Board.
- (d) Default. If the license or permit holder has been provided notice of the violation and if no request for a hearing is filed within the ten (10) day period, then the suspension or revocation imposed pursuant to this Ordinance shall take immediate effect by default.
- (e) Appeals. Any appeal of the decision of the County Board must be in compliance with applicable law.

Passed by the Dakota County Board of Commissioners on this 18th day of July, 2023.

ATTEST:
COUNTY OF DAKOTA, STATE OF MINNESOTA

Jennifer Reynolds
Clerk to the Board
Date of Signature: _____

Liz Workman, Chair
Dakota County Board of Commissioners
Date of Signature: _____

Approved as to form:

Approved as to Execution

Thomas R. Donely
First Assistant County Attorney
Date of Signature: _____

Thomas R. Donely
First Assistant County Attorney
Date of Signature: _____

[Online version posted without signatures for accessibility. Contact County Administration (phone: 651-438-4418; email: countyadmin@co.dakota.mn.us) to request a copy of the executed Ordinance.]