

NON-INTOXICATING LIQUORS

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

1201.01 Definitions.

- A. "Person" includes a natural person of either sex, co-partnership, corporation, and association of persons and the agent or manager of any of the aforesaid. The singular number includes the plural, and the masculine pronoun includes the feminine and neuter.
- B. "Beer" or "Non-Intoxicating Malt Liquor" means any malt beverage with an alcoholic content of more than one-half of one percent (+0.5%) by volume and not more than three and two-tenths percent (3 2/10%) by weight.
- C. "Original Package" means the bottle or sealed container in which the liquor is placed by the manufacturer.
- D. "Bona Fide Club" means a club organized for social or business purposes or for intellectual improvement or for the promotion of sports, where the serving of beer is incidental to and not the major purpose of the club.
- E. "Restaurant" means a place of which the major business is preparing and serving lunches or meals to the public to be consumed on the premises.
- F. "Beer Store" means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages, and soft drinks at retail.

1201.02 License Required.

- A. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the City without first having received a license as hereinafter provided. Licenses shall be of two kinds: (1) Retail "On-Sale" and (2) Retail "Off-Sale."
- B. "On-Sale" licenses shall be granted only to bona fide clubs, beer stores, drug stores, restaurants, and hotels where food is prepared and served for consumption on the premises. "On-Sale" licenses shall permit the sale of

beer for consumption on the premises only.

- C. "Off-Sale" licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

1201.03 Applications for License.

Every application for a license to sell beer shall be made on a form supplied by the City and shall state the name of the applicant, his age, representations as to his character with such references as may be required, his citizenship, whether the application is for "On-Sale" or "Off-Sale", the business in connection with which the proposed license will operate and its location, whether applicant is owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. It shall be unlawful to make any false statement in an application. Applications shall be filed with the City Clerk.

1201.04 License Fees.

- A. Each application for a license shall be accompanied by a receipt from the City Clerk for payment in full of the required fee for that license. All fees shall be paid into the General Fund of the municipality. Upon rejection of any application for a license, the Clerk shall refund the amount paid.
- B. All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one (1) month.
- C. The annual fee for the "On-Sale" license shall be established by Council resolution from time to time. The annual fee for an "Off-Sale" license shall be established by Council resolution from time to time.
- D. No part of the fee paid for any license issued under this Ordinance shall be refunded except in the following instances upon application to the Council within thirty (30) days from the happening of the event. There shall be refunded a pro-rated portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:
 - 1. Destruction or damage of the licensed premises by fire or other catastrophe.
 - 2. The licensee's illness.

3. The licensee's death, or
4. A change in the legal status of the municipality making it unlawful for the licensed business to continue.

1201.05 Granting of License.

- A. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license at a public hearing duly held by the Council. After such investigation and hearing the Council shall grant or refuse the application in its discretion.
- B. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the City Council.

1201.06 Persons Ineligible for License.

No license shall be granted to any person:

- A. Not eligible under State law.
- B. Who has been convicted of a felony, or of violating the National Prohibition Act or any law of this State or local ordinance relating to the manufacture or transportation of intoxicating liquors.
- C. Who is a manufacturer of beer or who is interested in the control of any place where beer is manufactured.
- D. Who is an alien.
- E. Who is not of good moral character.
- F. Who is or during the period of this license becomes the holder of a Federal retail "Liquor Dealer's Special Tax Stamp" for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place.
- G. Who is not the owner or proprietor of the establishment for which the license is issued.

1201.07 Conditions of License.

- A. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other

applicable ordinance of the City or State law.

- B. All licensed premises shall have the license posted in a conspicuous place at all times.
- C. No beer shall be sold or served to any intoxicated person or to any person not entitled to service under State law.
- D. No person under the age of 18 shall be permitted to sell or serve beer in any "On-Sale" establishment.
- E. Repealed.
- F. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of the statute in such case made and provided. No retail licensee or manufacturer or wholesaler of beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.
- G. No licensee shall sell beer while holding or exhibiting in the licensed premises a Federal retail liquor dealer's special tax stamp, unless he is licensed under the laws of Minnesota to sell intoxicating liquors.
- H. No licensee who is not also licensed to sell intoxicating liquors or who is not also the holder of a permit issued by the Commissioner of Public Safety, under and pursuant to Minnesota Statutes Annotated, Section 340A.504, Subdivision 3, paragraph (b) as amended, shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor.
- I. Any peace officer shall have the unqualified right to enter, inspect, and search the premises of a licensee during business hours, without a search and seizure warrant, and may seize all intoxicating liquors found on the licensed premises.
- J. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

1201.08

Closing Hours.

- A. No sale of beer shall be made on any Sunday between the hours of 12:01 A.M. and 12:00 Noon, nor between the hours of 12:01 A.M. and 8:00 P.M.

on any election day in the City. No sale shall be made between the hours of 12:01 A.M. and 8:00 A.M. on any other day.

- B. No licensee under this Ordinance for the sale of beer shall permit any person to consume any such beer on his premises within the time when the sale thereof is prohibited as specified in 1201.08 hereof, except for a period of fifteen (15) minutes after 12:01 A.M., on any day, and during the time such consumption is prohibited such licensee shall not permit any unconsumed beer, or any glasses, bottles, or other containers thereof to stand or be in evidence on counters, tables or booths where customers are ordinarily served in his place of business.

1201.09 Clubs.

No club shall sell beer except to members and to guests in the company of members.

1201.10 Restrictions of Purchase and Consumption.

- A. No person shall misrepresent his age for the purpose of obtaining beer.
- B. No individual, except those engaged in law enforcement activities, shall induce a person not entitled to purchase beer under state law to purchase or procure beer.
- C. No person other than the parent or legal guardian shall procure beer for any person not entitled to purchase beer under State law.
- D. No person not entitled to purchase beer under State law shall have beer in his possession, with the intent to consume it at a place other than the household of his parent or guardian.
- E. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who is not also the holder of a permit issued pursuant to Minnesota Statutes Annotated, Section 340A.504, Subdivision 3, paragraph (b) as amended.

1201.11 Revocation.

The violation of any provision or condition of this Ordinance by a beer licensee or his agent, shall be grounds for revocation or suspension of the license. The license of any person who holds a Federal "Retail Dealer's Special Tax Stamp" without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this Ordinance may be revoked or suspended by the Council after written notice to the licensee and a public hearing. The notice shall give at least eight (8) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may suspend any license pending a hearing on revocation or suspension.

1201.12 Renewal Applications.

Application for the renewal of an existing license shall be made at least sixty (60) days prior to the date of expiration of the license and shall be made in such abbreviated form as the City Council may approve. Proposed enlargement, alteration, or extension of premises previously licensed shall be reported to the City Clerk at or before the time application is made. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for his failure to file for a renewal within the time provided, the City Council may, if the other provisions of this ordinance are complied with, grant the application.

1201.13 Penalty.

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than Seven Hundred Dollars (\$700.00) or imprisonment in the County Jail for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

Repealed: Paragraph Sub. E. of Section 1201.07. Passed and adopted October 20, 1998
Amended: Paragraph Sub. E. of Section 1201.10. Passed and adopted October 20, 1998.