

ORDINANCE NO. 68

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION

The Council of the Village of Carlton do ordain:

- Sec. I Definition of terms. Subdivision 1. As used in this ordinance the term "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.
- Subdivision 2. "Intoxicating liquor" or "liquor" means any distilled or fermented beverage containing more than 3.2 per cent of alcohol by weight. The term does not include ethyl alcohol or neutral spirits or substitutes therefore, possessing the taste, aroma, and characteristics generally attributed to ethyl alcohol or neutral spirits.
- Subdivision 3. "Sale" and "sell" includes in addition to the accepted meaning of the term, all barter, gifts, and other means of furnishing intoxicating liquor in violation or evasion of this ordinance.
- Subdivision 4. "On Sale" means the sale by the drink for consumption on the premises only.
- Subdivision 5. "Off Sale" means the retail sale in the original package for consumption away from the premises where sold.
- Subdivision 6. "Package" or "original package" means any corked or sealed container or receptacle holding liquor.
- Subdivision 7. "Club" means any corporation duly organized under the laws of Minnesota for civic, fraternal, social or business purposes or for intellectual improvement or for the promotion of sports, if it meets all the following conditions:
- (1) it shall have more than 50 members;
 - (2) for more than a year it shall have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members;
 - (3) its affairs and management shall be conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose;
 - (4) none of its members, officers, agents, or employees shall be paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club or to its guests beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the governing body of the club.
- Subdivision 8. "Drug Store" means any establishment where drugs are kept, compounded, and sold if it is at all times in charge of a registered pharmacist ^{or} of a registered assistant pharmacist during the temporary absence of the registered pharmacist.
- Sec. II License required. Subdivision 1. No person, except wholesalers or manufacturers to the extent authorized under the state license shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance. Licenses shall be of three kinds: "on sale" and club licenses.
- Subdivision 2. "On Sale" license shall be issued only to bona fide clubs, and shall permit "on sales" of liquor only.
- Subdivision 3. Special club licenses shall be issued only to duly incorporated clubs which have been in existence for 20 years.

Sec. III Applications for License. Subdivision 1. Every application for a license to sell liquor shall be verified and filed with the Village Clerk. It shall state the name of the applicant, his age, representations as to his character, with references as may be required, his citizenship, whether the application is for "on sales" or "off sales", 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. In addition to containing such information, each control commissioner. No person shall make a false statement in an application.

Subdivision 2. A surety bond, liability insurance policy, or in lieu thereof cash or United State Government Bonds of equivalent market value shall accompany each application for a license, 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 of the penal amount of the bond or policy.

All such bond or policies shall be for the benefit of the obligee and all persons suffering damages by reason of the breach of the conditions of the bond. In the event of the forfeiture of any such bond or policy for violation of law, the district court may forfeit the penal sum of the bond or policy or any part of it to the state or municipality.

Subdivision 3. The security offered under Subdivision 2 shall be approved by the ~~village~~ council and in the case of applicants for "off sale" licenses by the State liquor control commissioner. Surety bonds and liability insurance policies shall be approved as to form by the ~~village~~ attorney. The operation of such "off sale" or "on sale" liquor business with having on file at all times with the municipality an effective bond, insurance policy, or other security as required in Subdivision 2, shall be grounds for immediate revocation of the license. Such Surety bond or other security shall be in the sum of \$3000.00 for an applicant for an "on sale" license and \$3000.00 for an applicant for an "off sale" license. All such bonds or other security shall be conditions as follows:

- (a) That the licensee will obey the law related to such licensed business;
- (b) That the licensee will pay to the municipality when due all taxes, licenses fee, penalties, and other charges provided by law;
- (c) That in the event of any violation of the provisions of any law relating to the retail "off sale" and "on sale" of intoxicating liquor, such bond, policy, or other security shall be forfeited to the village;
- (d) That the licensee will pay to the extent of the principal amount of such bond, policy, or security, 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 paragraph (d) may be had from the surety on the bond or the policy. The amount specified in such bond or policy is declared to be a penalty.

Sec. IV License Fees. Subdivision 1. Each application for a license shall be accompanied by a receipt for the (village) treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license, the treasurer shall refund the amount paid.

Subdivision 2. All license shall expire on the last day of May of each year. Each license shall be issued for a period of one 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 rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

Subdivision 3. The annual fee for an "on sale" license shall be \$1,000.00. The annual fee for an "off sale" license shall be \$150.00. The annual fee for a special club license shall be \$100.00.

Subdivision 4. 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 10 days from the happenings of the event. There shall be refunded a prorata portion of the fee for the unexpired period 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;
- (4) A change in the legal status of the municipality, making it unlawful for the licensed business to continue.

Sec. V Granting of Licenses. Subdivision 1. The Village 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. After such investigation and hearing the village council shall grant or refuse the application in its discretion. No "off sale" license shall become effective until it, together with the bond furnished by the applicant, has been approved by the liquor control commissioner.

Subdivision 2. Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license may be transferred to another person in the application. No license may be transferred to another person or to another place without the approval of the village council.

Sec. VI Condition of License. Subdivision 1. 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 village or state law.

^{POSTING OF LICENSE}
 ✓ Subdivision 2. The license shall be posted in a conspicuous place on the licensed premises at all times.

^{BARON CONDUCT}
 ✓ Subdivision 3. Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order in it.

^{OTHER REQUISITS}
 ✓ Subdivision 4. No "on sale" licensee shall sell intoxicating liquor "off sale" unless he also holds an "off sale" liquor license. No "off sale" licensee shall sell "on sale" or permit the consumption of any liquor on the licensed premises.

^{SPECIAL PROVISIONS}
 ✓ Subdivision 5. No license shall be effective beyond the compact and (contiguous) space named in the license for which it was granted. (great word)

^{SERVING RESTRICTIONS}
 ✓ Subdivision 6. No liquor shall be sold or furnished to any intoxicated person, to any habitual drunkard, to any person under ~~21~~ years of age, or to any Indian who has not adopted the language, customs, and habits of civilization.

^{EMPLOYEE AGE RESTRICTION}
 ✓ Subdivision 7. No person under ~~21~~ ¹⁹ years of age shall be employed in any rooms where "on sales" are made and no such person shall be allowed to be or remain on any licensed premises.

^{GAMBLING}
 ✓ Subdivision 8. No licensee shall keep, possess, or operate or permit the keeping, possession, or operation of any slot machine, dice, or any gambling device or apparatus on the licensed premises or in any room adjoining the licensed premises and he shall not permit any gambling therein.

^{PROSTITUTION}
 ✓ Subdivision 9. No licensee shall permit the licensed premises or any room in those premises or in any adjoining building directly or indirectly under his control to be used as a resort for prostitutes.

^{RIGHT TO ENTER}
 ✓ Subdivision 10. Any peace officer, health officer, or any properly designated officer or employee of the village shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant.

- ^{TAMPED WITH ORIGINAL PACKAGE}
 ✓ Subdivision 11. No licensee shall sell, offer for sale, or keep for sale, intoxicating liquors in any original package which has been re-filled or partly refilled. No licensee shall directly or through any other person dilute or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the licensed premises by any licensee of any intoxicating liquor in the original package differing in composition or alcoholic content from the liquor when received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.
- ^{DISPLAY DURING PROHIBITED HOURS}
 ✓ Subdivision 12. No "on sale" liquor establishment shall display liquor when open to the public during hours when the sale of liquor is prohibited by this ordinance.
- ^{FEDERAL STAMPS}
 ✓ Subdivision 13. No licensee shall apply for or possess a Federal whole-sale liquor dealers' special tax stamp.
- ^{PROHIBITIVE SERVICE}
 ✓ Subdivision 14. No person shall sell intoxicating liquor to any spendthrift or improvident person after written notice not to do so has been served on him by a parent, husband, wife, adult child, or guardian of such person or by the chief of police or any council man of the village. The prohibition of this subdivision shall extend for one year from the date of the service of the notice. When notice is served by an authorized person not a ~~village~~ ^{city} official, a copy of the notice shall also be served upon the ~~village~~ ^{city} official, a copy of the notice shall also be served upon the ~~village~~ ^{city} clerk; but the prohibition of this ordinance shall be effective without such additional service.
- ^{ETHYL ALCOHOL OR NEUTRAL SPIRITS}
 ✓ Subdivision 15. No licensee shall keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises alone or mixed with any other beverage.
- ^{DANCING}
 ✓ Subdivision 16. No dancing shall be permitted on premises licensed to sell liquor or in any room directly or indirectly communicating with the licensed premises.

Sec. VII ^{see # 69} Hours of Operation. No sale of intoxicating liquor shall be made on Sunday, before 3:00 P.M. on any Memorial Day, or before 8:00 P.M. on any election day in the Village. No "on sale" shall be made before 8:00 A.M. or after 8:00 P.M. on any day except Saturday on which day "off sales" may be made until 10:00 P.M. No "off sale" shall be made on New Year's Day, January 1; Memorial Day, May 30; Independence Day, July 4; Thanksgiving Day; or Christmas Day, December 25. On the evenings preceding such days, if the sale of liquor is not otherwise prohibited on such evenings, "off sales" may be made until 10:00 P.M. except that no "off sales" shall be made on December 24 after 8:00 P.M. No cigars, cigarettes, tobacco, or non-intoxicating malt beverages, or soft drinks shall be sold in any exclusive liquor store during the hours when the sale of intoxicating liquor is prohibited in the store.

Sec. VIII Clubs. No club holding a special club license shall sell liquor except to members. No other licensed club shall sell liquor except to members and to guests in the company of members.

- Sec. IX Restrictions on Purchase or Consumption. Subdivision 1. No minor shall misrepresent his age for the purpose of obtaining intoxicating liquor.
- Subdivision 2. No person shall induce a minor to purchase or procure liquor.
- Subdivision 3. No person shall give to, procure or purchase liquor for any minor or other person to whom the sale of intoxicating liquor is forbidden by law.

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Sec. X Revocation. The council may suspend or revoke any liquor license for violation of any provision or condition of this ordinance or any state law regulating the sale of intoxicating liquor and shall revoke such license if the license wilfully violates any provision of Minnesota Statutes Sections 340.07 to 340.40. Except in the case of a suspension pending a hearing or revocation, revocation or suspension by the Council shall be preceded by written notice to the grantee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The Council may, without any advance notice, suspend any license pending a hearing on revocation for a period not exceeding 30 days.

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Sec. XI Penalty. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100.00 or imprisonment in the county jail for not more than ninety days plus the costs of prosecution in either case.

Sec. XII Effective Date. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed April 7, 1949

Vern Brower
President of the Council

Presented for Approval April 7, 1949

Approved April 7, 1949

Attest: Charles Bellingham
Village Clerk