

ORDINANCE NO. 83

(Alcoholic Beverages)

Amended by 86
2005

CITY OF NEW GERMANY

CARVER COUNTY, MINNESOTA

December 17, 2003

AN ORDINANCE REGULATING THE POSSESSION, SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF NEW GERMANY.

THE CITY COUNCIL OF THE CITY OF NEW GERMANY, CARVER COUNTY, MINNESOTA, ORDAINS:

ALCOHOLIC BEVERAGES

Section 1. Adoption of state law by reference.

The provisions of M.S. Ordinance 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of alcoholic beverages including intoxicating liquor, 3.2 percent malt liquor and wine are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the city council that all future amendments to M.S. Ordinance 340A are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance is adopted.

The council is authorized by the provisions of M.S. § 340A.509, to impose, and has imposed in this ordinance, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ordinance 340A, as it may be amended from time to time.

Section 2. Definitions.

In addition to or as a supplement to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

Alcoholic Beverage, is any beverage containing more than one-half of one percent alcohol by volume and includes the term "liquor" as used in this ordinance.

Club, is an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, **which**:

- (a) has more than 30 members;

(b) has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members; and

(c) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

Exclusive liquor store, is an establishment used exclusively for the sale of those items authorized by Minnesota Statutes Section 340A.412, Subd. 14.

Hotel, is an establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time and a minimum of 10 guest rooms.

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

Liquor, as used in this ordinance, except as the context may otherwise require, without modification by the words "intoxicating" or "3.2 percent malt", includes intoxicating liquor, 3.2 percent malt liquor, malt liquor and wine.

Malt liquor, is any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

3.2 percent 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.

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

On-sale, is the sale of alcoholic beverages for consumption on the licensed premises only.

Restaurant, is a catering facility, other than a hotel, under the control of a single proprietorship or manager, having facilities for seating at least 30 guests at one time, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location and which has a license from the state to serve food. An establishment which serves only prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this ordinance.

Wine, is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent

nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits.

Section 3. Nudity on the premises of licensed establishments prohibited.

(a) The city council finds that it is in the best interests of the public health, safety and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this ordinance. This is to protect and assist the owners, operators and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity and sex. The council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault and disorderly conduct. The council also finds that the prohibition of nudity on the premises of any establishment licensed under this ordinance, as set forth in this section reflects the prevailing community standards of the city.

(b) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breast and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material.

(c) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any alcoholic beverages license issued under this ordinance or the imposition of a civil penalty under the provisions of this ordinance.

Section 3.5. Pyrotechnics prohibited.

It is unlawful for any licensee or any other person to permit, allow or use pyrotechnics, fireworks, flares or signals of any kind in or on the licensed premises.

Section 4. Liquor in unlicensed places. Restrictions on purchase and consumption.

(a) Except as provided in Section 6, no person, business establishment or club, shall display, mix, sell, serve or prepare liquor, directly or indirectly, for consumption in any public place or place of business unless such person, business establishment or club, has a license to sell liquor "on-sale" from the City of New Germany or a permit from the commissioner of public safety under the provisions of M.S. § 340A.414 has been approved by the council. No person shall consume liquor in any such unlicensed place.

(b) Subject to the approval of the state commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious or other nonprofit 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 state law.

Section 5. Consumption in public places. Possession of opened containers in certain areas prohibited.

(a) Except where and when the consumption and display of liquor is lawfully permitted, no person shall consume liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this ordinance or any municipal liquor dispensary if one exists in the city.

(b) Except where the consumption and display of liquor is lawfully permitted, no person shall have in his or her possession while within a motor vehicle or while upon any public highway, street, alley, sidewalk, parking lot or in any park within the city any bottle, can or other receptacle containing liquor which has been opened, or the seal of which has been broken, or the contents of which has been partially removed.

Section 6. Exception to public consumption prohibition of beer, wine and liquor.

(a) It shall not be illegal for a person of legal age to have in his/her possession or to consume liquor within a public park or in a public building in the city if such item was purchased from a bona fide club or organization which has received a temporary "on-sale" license from the city and such possession or consumption is at the location and on the date and during the hours provided for the sale of such item as required by such license.

(b) It shall not be illegal for a person of legal age to have in his/her possession or to consume liquor in a public park or building when such item is offered free of charge to the consumer as part of an organized social event **and** under the following conditions:

- (1) The liquor offered or provided cannot be sold at any cost - all items must be offered or provided free of charge (tip jars or passing of the hat for items is strictly prohibited).
- (2) The person or party offering or providing the liquor agrees to defend and indemnify the city for any claims that arise as a result of the event.
- (3) The person or party offering or providing the liquor agrees to hold the city harmless.
- (4) The person or party offering or providing the liquor has obtained a permit for the event from the city.

Section 7. Penalties.

Any person violating any provision of this ordinance is guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-13 of this code.

Section 8. Enforcement of ordinance.

It shall be the duty of all law enforcement officers of the city to enforce the provisions of this ordinance, to search premises and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this ordinance, and to prepare the necessary processes and papers therefor.

Section 9. Term and expiration of licenses.

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31, of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

Section 10. On-sale licenses.

The city council is authorized to issue the following “on-sale” licenses and permits:

(a) 3.2 percent malt liquor license, pursuant to M.S. § 340A.403, Subd. 1, and M.S. § 340A.411 which may be issued only to restaurants, hotels, and clubs as defined in this ordinance.

(b) Temporary 3.2 percent malt liquor license, pursuant to M.S. § 340A.403, Subd. 2, which may be issued only to clubs, charitable, religious or nonprofit organizations.

(c) Intoxicating liquor license, pursuant to M.S. § 340A.404, Sub d. 1, which may be issued only to hotels and restaurants as defined in this ordinance.

(d) Exclusive liquor store intoxicating liquor license pursuant to M.S. § 340A.412, Subd. 14.

(e) Temporary intoxicating liquor license, pursuant to M.S. § 340A.404, Subd. 10, with the approval of the commissioner of public safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious or other non-profit corporation which has existed for at least three years. No license shall be for longer than four consecutive days and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year. The license may authorize on-sales on premises other than the premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the city.

(f) Wine license, pursuant to M.S. § 340A.404, Subd. 5, which may be issued only to restaurants having facilities for seating at least 30 guests at one time, and shall permit only the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

(g) Sunday intoxicating liquor license, pursuant to M.S. § 340A.504, Subd. 3, which may be issued only to a licensee which has been issued an intoxicating liquor license.

(h) Approval of the issuance of a consumption and display permit by the commissioner of public safety pursuant to the requirements and provisions of M.S. § 340A.414. A one day permit may be issued pursuant to M.S. § 340A.414, Subd. 9, not to exceed ten permits in any one year.

(i) Bed and Breakfast wine license, pursuant to M.S. § 340A.404, Subd. 5(c).

- (j) Combination on-sale/off sale license pursuant to M.S. § 340A.406.

Section 11. Off-sale licenses.

The city council is authorized to issue the following “off-sale” licenses:

- (a) 3.2 percent malt liquor license pursuant to M.S. § 340A.403, Subd. 1.
- (b) Intoxicating liquor license pursuant to M.S. § 340A.405, Subd. 1, or M.S. § 340A.412, Subd. 6

Section 12. Clubs.

Clubs shall not sell 3.2 percent malt liquor except to members and to bona fide guests in the company of members.

Section 13. Number of on-sale liquor licenses.

The city council may issue a maximum of three (3) “on-sale” intoxicating liquor licenses under this ordinance. The availability of these licenses for issuance in no way shall be deemed to require or commit the city council to issue any or all of said licenses. The city council may from time to time by ordinance or resolution establish the maximum number of other on-sale licenses authorized by this ordinance and as may be limited by Minnesota Statutes Ordinance 340A.

Section 14. License fees; pro rata.

(a) No license or other fee established by the city for a liquor license shall exceed any limit established by M.S. Ordinance 340A, as it may be amended from time to time.

(b) The council may establish from time to time by ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. No liquor license fee shall be increased without providing mailed notice of the hearing on the proposed increase to all affected licenses at least 30 days before the hearing.

(c) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(d) All license fees shall be paid in full at the time the application is filed with the city. The license fee is non-refundable even if the application is denied. A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5.

Section 15. Licensing procedures. Applications. Investigations. Hearings. Premises.

(a) At the time of an original application for a liquor license the applicant shall pay a minimum investigation fee in an amount to be determined from time to time by resolution of the city council for each person listed on the application form, which shall include all natural persons, partners, managers, corporate officers and corporate shareowners. This fee shall be paid when an application is filed with the city, and it shall not be subject to refund. If the expenses of

any investigation are extraordinary and exceed the minimum investigation fee the applicant shall pay all reasonable additional expenses incurred by the city for such investigation. Failure to pay such additional expenses within a five-day period shall be cause for the city to discontinue processing of the application. At any time an additional investigation is required due to a change in ownership or control of a partnership, corporation or other organization a licensee shall pay a minimum investigation fee in an amount to be determined from time to time by resolution of the city council.

(b) All applications shall be processed by the City Administrator or City Clerk for verification and investigation of the facts set forth therein. The Chief of Police or Sheriff shall investigate the background of all persons listed in the application form or the city may hire other parties to make such investigations as it may deem appropriate. Jointly or separately they shall submit a written report to the city council on the results of their investigation. The city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state and with such additional information as the city council may require. If the city council deems it in the public interest to have an investigation made on a particular application for renewal of a license, it shall so determine. In any case, if the council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the state or others for the investigation. No license shall be issued, transferred or renewed if the results show to the satisfaction of the council that issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed actual costs incurred, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted.

(c) The city council shall investigate all facts set out in the application for any alcoholic beverage license and not investigated in the preliminary background and financial investigation conducted pursuant to section 6-15 (a) and (b). Upon receipt of the report of the preliminary background and financial investigation in regard to an initial application, the city council shall instruct the clerk to cause to be published in the official newspaper of the city, at least ten days in advance, a notice of hearing to be held by the city council on the application for the intoxicating liquor, 3.2 percent malt liquor or wine license, setting forth the date, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business and such other information as the council may direct. At the hearing, an opportunity shall be given to any person to be heard for or against the granting of a license. A license shall not be approved before the next regular meeting of the city council. After the hearing under this section, the city council may, in its discretion, require further investigation and/or hearing before issuance or denial of a license. After such investigation and hearing, the council shall, in its discretion, grant or refuse the application. No on-sale wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the state commissioner of public safety.

(d) If a license is approved, the city council may withhold its issuance until the applicant has qualified in all respects for said license. If the premises to be licensed is not complete at the time of approval the council may approve the license but withhold its issuance until the premises have been completed in accordance with all representations made by the applicant. In such a case the council may rescind their action approving the license if the applicant has not proceeded

with reasonable dispatch to complete the subject premises, but such action may only be taken following ten (10) days notice to the applicant.

(e) The issuance of any license hereunder is and shall remain at the sole and absolute discretion of the city council. No applicant has a right to a license under this ordinance.

(f) All licenses shall be and are issued subject to conformance with all provisions of this ordinance and all other applicable regulations, ordinances, laws and statutes.

(g) Each license issued hereunder shall be issued to the applicant only. Each such license shall be issued only for the premises described in the application and shall not be effective beyond the compact and contiguous space described therein.

(h) No transfer of a license shall be permitted from place to place or from person to person without complying with all requirements of an original application, including the payment of all fees therefore.

Section 16. Renewal applications.

(a) Applications for the renewal of an existing alcoholic beverage license shall be made at least 60 days prior to the date of the expiration of the license, and shall be made in such form as the city council may approve. 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 applicable provisions of this ordinance are complied with, grant the application.

(b) At the earliest practical time after application is made for renewal of an "on-sale" license by a restaurant or hotel, and in any event prior to the time that the application is approved by the city council, the applicant shall file with the clerk a statement made by a certified public accountant that shows the total gross sales and the total food sales of the restaurant or hotel for the year immediately preceding the date of filing of the renewal application. The requirement in this subsection shall not apply to renewal applications for wine licenses or 3.2 malt liquor licenses.

(c) The council shall make such investigation of the facts set out in the application and a review of the past operation of the licensee as it may determine appropriate and may call a public hearing and take such other steps as allowed by law before the issuance of a renewal license.

Section 16.5. Transfer of license.

No license issued under this ordinance may be transferred without the approval of the city council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

Section 17. Hours and days of sale.

(a) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time.

(b) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(c) No on-sale licensee shall permit any glass, bottle or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(d) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(e) Any violation of any condition of this section may be grounds for revocation or suspension of the license.

Section 18. Conditions of license.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(a) Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the council. Proof of training shall be provided by the licensee.

(b) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

(c) Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the council to conduct compliance checks and to otherwise enter, inspect and search the premise of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(d) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(e) Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

Section 19. License suspension or revocation.

(a) The city council may suspend or revoke any license issued pursuant to this ordinance for the violation of any provisions of this ordinance or for the violation of any other law, statute or ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages. However, no such action shall be taken without ten (10) days written notice to the licensee. The city council shall either suspend for up to 60 days or revoke any retail license or permit or impose a civil fine not to exceed \$2,000.00 for each violation upon a finding that the licensee or permit holder has failed to comply with any applicable statute, rule or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee or permit holder has been afforded an opportunity for a hearing pursuant to M.S. § 14.57 - 14.69 of the administrative procedure act. The hearing is not required to be conducted before an employee of the state office of administrative hearing. If a license is revoked, no portion of the license fee may be refunded.

(b) The city council or the state commissioner of public safety may impose the penalties provided in this section on a retail licensee who knowingly:

- (1) Sells alcoholic beverages to another retail licensee for the purpose of resale;
- (2) Purchases alcoholic beverages from another retail licensee for the purpose of resale
- (3) Conducts or permits the conduct of gambling on the licensed premises in violation of the law; or
- (4) Fails to remove or dispose of alcoholic beverages when ordered by the commissioner to do so under M.S. § 340A.508, subd. 3.
- (5) Sells any liquor related product to a minor.

(c) Lapse of required dram shop insurance or withdrawal of a required proof of financial responsibility shall result in an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liability policy or withdrawal of proof of financial responsibility shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or withdrawal of proof of financial responsibility or of suspension or revocation of a license may request a hearing. If such a request is made in writing to the clerk, a hearing shall be granted within ten days or such longer period as may be requested. Any suspension under this subsection shall continue until the city council determines that the financial responsibility requirements of this ordinance and state law have again been met. The city council must be notified of any change in status of the holder's insurance by the insurance company providing the coverage.

(d) The provisions of Section 19(a) pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

Section 20. Persons ineligible for licenses.

The provisions of this section shall govern an applicant's initial and continued eligibility for a license pursuant to this ordinance, and no license shall be issued to:

(a) A natural person:

- (1) Who is not a citizen of the United States or a resident alien and not a resident of the state. If the applicant is a corporation, all shareholders shall be residents of the state.
- (2) Who is under 21 years of age.
- (3) Who has had an intoxicating liquor or malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns a controlling interest of the capital stock of a corporation licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business or firm in which any such person is in any manner interested.
- (4) Who is not of good moral character and repute.
- (5) Who has a direct or indirect interest in a manufacturer, brewer or wholesaler of intoxicating liquor, or who is employed by a manufacturer or wholesaler of intoxicating liquor.
- (6) Who has a direct or indirect financial interest in any other establishment within the city that has a license issued under this ordinance. The word "interest" as used in this provision shall mean a controlling interest of any such establishment.
- (7) Who has been convicted of a felony.
- (8) Who within the past five years has been convicted of a violation of any law, statute or ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor.

(b) A partnership, which has a partner ineligible for a license under above natural person section.

(c) A corporation or other organization, which has an officer, shareowner or manager ineligible for a license under the above natural person section. The term "shareowner" as used in this provision shall mean any person who, together with direct relatives, who has a controlling interest of the assets of said corporation.

(d) A restaurant located on property owned by a person ineligible for a license under the above natural person section.

(e) A restaurant located on property upon which taxes, special assessments or other financial claims of the city are delinquent and unpaid.

(f) A restaurant, as defined herein, which does not have a minimum market valuation totaling an amount set from time to time by the city council on the city fee schedule. The calculation shall be estimated on a per seat basis, as computed by the City Assessor.

(g) A foreign corporation

Section 21. License restrictions.

The following provisions shall govern the initial issuance of a license and the continued validity of a license issued pursuant to this ordinance.

(a) Each license shall be issued only to the applicant and for the premises described in the application.

(b) The licensee shall at all times comply with all provisions of this ordinance and with all other applicable laws, statutes and ordinances regarding the manufacture, sale, distribution, or possession for sale or distribution of alcoholic beverages, as the same shall be in effect at the time the license is issued and as the same shall exist from time to time thereafter.

(c) All business, liability insurance and financial records of the licensee, including all financial reports and tax returns, shall be available for inspection by the city at all reasonable times.

(d) The business of a licensee who has been issued an intoxicating liquor license except for which an exclusive liquor store license has been issued shall be conducted in such a manner that at least 25% of the gross sales of the business for any license year shall be for the serving of food. The business of a restaurant which is part of a greater operation, such as a hotel or motel, shall be conducted in such a manner that at least 25% of the gross sales of the total operation attributable to the serving of food and intoxicating liquor for any license year shall be for the serving of food. The Licensee shall be required to make annual reports showing the percentage of gross sales attributable to food service.

(e) All sales of intoxicating liquor shall be made in areas designed primarily for the service of food, and no such sale shall be made in any area where the purchase of food is not available, except for those premises for which an exclusive liquor store license has been issued.

(f) No alcoholic beverage license shall be issued or renewed for operation on any premises on which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

(g) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

(h) No license shall be issued to any person or for any place or any business ineligible under state law.

Section 22. Minors on premises.

(a) No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

(b) No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

Section 23. Application for license; form.

(a) An application form for licenses required by this ordinance shall be prepared by the City Clerk. In addition to any information which may be required by the Minnesota State Liquor Control Commissioner, the form shall include but not be limited to the following information:

- (1) Name of the applicant;
- (2) Applicant's age;
- (3) Representations as to applicant's character (with such references as the council may require);
- (4) Applicant's citizenship;
- (5) The type of license the applicant is seeking
- (6) The business in connection with which the proposed license will operate and its location;
- (7) Whether the applicant is a natural person, partnership, corporation or other form of organization.;
- (8) If the applicant is a natural person the requested personal information about the applicant and his/her background
- (9) If the applicant is a partnership the names and addresses of all partners and the requested personal information about each partner and his/her background. The financial interest of each partner shall be disclosed, and a managing partner shall be designated. A true copy of the partnership agreement shall be submitted with the original application form.
- (10) If the applicant is a corporation or other organization the names and addresses of all officers and the proposed manager, and the requested personal information about each and his/her background. The names, addresses and financial interest shall be disclosed for all corporate shareowners who, together with direct relatives, have a controlling interest of the assets of said corporation, and the requested personal information shall be furnished about each such person and his/her background. True copies of the articles of incorporation and corporate bylaws shall be submitted with the original application form.
- (11) The amount of assets which the applicant has in the business premises, fixtures, stock and operating capital shall be disclosed, together with proof of the source of such assets.
- (12) The names and addresses of all persons, other than those listed above, who have any financial interest in the business, premises, fixtures, stock or operating capital, together with the amount and nature of such interest and the terms for payment or other reimbursement thereof. This shall include but not be limited to all lessors, mortgagors, lenders, lien holders, trustors and persons who have co-signed notes or otherwise loaned, pledged or extended security to the applicant for any indebtedness.
- (13) The address and legal description of the premise to be licensed and plans of the site and all buildings thereon, showing all appropriate dimensions
- (14) If the applicant is a natural person the application form shall be executed by that person. If the applicant is a partnership the application form shall be executed by the managing partner, and if the applicant is a corporation or other organization the application form shall be executed by a corporate or organization officer.

- (15) How long applicant has been in that business;
- (16) How long applicant has been in that business at that place; and
- (17) Such other information as the council may require from time to time.

(b) Every application for any license to sell alcoholic beverages shall also include a copy of each summons received by the applicant under M.S. § 340A.802 during the preceding year.

(c) In addition to containing the information prescribed in this section, the application for any license to sell alcoholic beverages shall be in the form prescribed by the state bureau of criminal apprehension and shall be verified and filed with the clerk. No person shall make a false statement in an application.

Section 24. Dram shop liability financial responsibility.

No alcoholic beverage license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility as required in M.S. § 340A.409 as it may be amended from time to time with regard to liability under M.S. § 340A.801 as it may be amended from time to time. Such proof shall be filed with the city and commissioner of public safety. Applicants for licenses to whom the requirement for proof of financial responsibility applies include applicants as required in M.S. § 340A.409. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409.

Section 25. Approval of security.

The security offered under this ordinance shall be approved by the city council and, when applicable, by the state commissioner of public safety. Liability insurance policies required by this ordinance but not by state law shall be approved as to form by the city attorney. Operation of a licensed business without having on file with the city at all times effective security as required in this ordinance is a cause for suspension or revocation of the license.

Section 26. Consumption and display permits.

(a) No business establishment or club 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 of public safety.

(b) The presence of intoxicating liquor on the premises of such business establishment or club shall be prima facie evidence of possession of intoxicating liquor for the purpose of sale. The serving any liquid knowing that it is for the purpose of mixing with intoxicating liquor shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.

(c) A permit for the consumption and display of intoxicating liquor to be issued by the state commissioner of public safety pursuant to M.S. § 340A.414 shall be subject to prior approval by the city council. Application to the city for approval of the permit shall be on the form

prescribed by the state. The council may call a public hearing on the application and grant or refuse approval of the permit.

Section 27. Publication by summary.

(a) Summary approval. Pursuant to Minnesota Statutes Section 412.191, Subd. 4, the Council hereby determines that publication of the title and a summary of this Ordinance will clearly inform the public of the intent and effect of this Ordinance. The text of the summary of this Ordinance, entitled "Official Summary of Ordinance No. 245", a copy of which is attached hereto, is hereby approved and the Council determines that it clearly informs the public of the intent and effect of this Ordinance.

(b) Publication, inspection, and posting. The City Clerk is hereby directed that only the title of this Ordinance and the attached summary be published with a notice that a printed copy of the entire Ordinance is available for inspection by any person during regular office hours at the office of the City Clerk.

Section 28. Effective date. Codification.


This Ordinance shall take effect and be in full force upon its adoption and upon the publication of its title and official summary.

Passed and adopted by the City Council of the City of New Germany this 17th day of December, 2003.

APPROVED:


Franklin Schoenke, Mayor

ATTEST:


Shelly Quaas, Clerk

(Title and Summary published in the Herald Journal, Winsted, MN on the 6th day of January, 2004.)