

ORDINANCE 142

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

The City Council of the City of Bird Island ordains:

Section I. PROVISIONS OF STATE LAW ADOPTED

The provisions of Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

Section II. LICENCE REQUIRED

Subdivision 1. General Requirement.

No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city an intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of four kinds: "on-sale", "off-sale", club licenses, and "on-sale" wine licenses.

Subdivision 2. On-sale Licenses.

"On-Sale" licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only.

Subdivision 3. On-sale Wine Licenses.

"On-sale" wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes, Section 340.11, Subdivision 20 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.

Subdivision 4. Off-sale Licenses.

"Off-sale" licenses shall be issued only to exclusive liquor stores and shall permit "off-sales" of liquor only.

Subdivision 5. Special Club Licenses.

Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years.

Section III. APPLICATION FOR LICENSE

Subdivision 1. Form.

Every application for a license to sell liquor shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long he has been in that business at the place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the liquor control director and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

Subdivision 2. Bond.

Each application for a license shall be accompanied by a surety bond, or, in lieu thereof, cash or United States Government Bonds of equivalent market value as provide in Minnesota Statutes, Section 340.12. Such surety bond or other security shall be in the sum of \$5,000.00 for an applicant for an "on-sale" license or an "on-sale wine license" and \$3,000.00 for an applicant for an "off-sale" license.

Subdivision 3. Approval of Security.

The security offered under Subdivision 2. shall be approved by the city council and in the case of applicants for "on-sale" wine licenses and "off-sale" licenses, by the stat liquor control director. Surety bonds 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 Subdivision 2 is a cause for revocation of the license.

SECTION IV. LICENSE FEES.

Subdivision 1. Fees.

The annual fee for a liquor license shall be \$4,900.00 for an "on-sale" license, \$100.00 for an "on-sale wine license", \$100.00 for an "off-sale" license and \$100.00 for a special club license.

Subdivision 2. Payment.

Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid.

Subdivision 3. Term; pro rata fee.

Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of June.

Subdivision 4. Refunds.

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

SECTION V. GRANTING OF LICENSES:

Subdivision 1. Investigation and Issuance.

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. After the investigation and hearing, the council shall, in its discretion, grant or refuse the application. No "on-sale" wine license or "off-sale" license shall become effective until it, together with the security furnished by the applicant, has been approved by the liquor control director.

Subdivision 2. Person and Premises Licensed; transfer.

Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without city council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

SECTION VI. PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person made ineligible for such a license by state law.

SECTION VII. PLACES INELIGIBLE FOR LICENSE.

Subdivision 1. General Prohibition.

No license shall be issued for any place or any business ineligible for such a license under state law.

Subdivision 2. Delinquent Taxes and Charges.

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

Subdivision 3. Distance from School and Church.

No license shall be granted within 300 feet of any school or within 300 feet of any church.

SECTION VIII. CONDITIONS OF LICENSE.

Subdivision 1. In General.

Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other application ordinance, state law or regulation.

Subdivision 2. Licensee's Responsibility.

Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order of it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there 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.

Subdivision 3. Inspections.

Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subdivision 4. Display during prohibited hours.

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

Subdivision 5. Federal stamps.

No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

SECTION IX. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subdivision 1. Liquor in unlicensed places.

No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor "on-sale" or a permit from the liquor control director under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.

Subdivision 2. Consumption in public places.

No person shall consume liquor on a public highway, public park, or other public place.

SECTION X. SUSPENSION AND REVOCATION.

The Council may either suspend for not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section 15.0418 to 14.0426.

SECTION XI. PENALTY

Any person violating any provision of this ordinance is guilty of a misdemeanor.

SECTION XII. REPEAL.

Ordinances No. 56; 57.5; 67; 73; 104; and all other provisions of ordinances inconsistent with this ordinance are hereby repealed.

SECTION XIII. EFFECTIVE DATE.

This ordinance becomes effective upon its passage and publication according to law.

Passed by the council this 11th day of April, 1979.

Mayor Elmer Krueger

Frank Saunders, Clerk

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