

ORDINANCE NO. 45

AN ORDINANCE LICENSING AND REGULATING THE
SALE AND CONSUMPTION OF INTOXICATING LIQUOR,
REPEALING IN-CONSISTENT ORDINANCES, AND
PROVIDING A PENALTY FOR VIOLATION THEREOF.

The City Council of the City of New Munich, Minnesota,
ordains:

SECTION 1. 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 2. LICENSE 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 any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of two (2) kinds: "on-sale" and "off-sale".

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

SECTION 3. APPLICATION FOR LICENSE.

Subdivision 1. Form. Every application for 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 that 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 provided in Minnesota Statutes, Section 340.12. Such surety bond or other security shall be in the sum of \$3,000.00 for an applicant for an "on-sale" license and \$2,000.00 for an applicant for an "off-sale" license.

Subdivision 3. Liability Insurance. Prior to the issuance of liquor license, the applicant may file with the city clerk a liability insurance policy in the amount of \$10,000.00 coverage for one person and \$20,000.00 coverage for more than one person and shall comply with the provisions of Minnesota Statutes, Section 340.12 relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under that statute, the policy may be accepted by the council in lieu of the bond required under subdivision 2.

Subdivision 4. Approval of Security. The security offered under subdivisions 2 and 3 shall be approved by the city council and in the case of applicants for "off-sale" licenses, by the state liquor control director. Surety bonds and liability insurance policies 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 subdivisions 2 and 3 is a cause for revocation of the license.

SECTION 4. LICENSE FEES.

Subdivision 1. Fees. The annual fee for a liquor license shall be \$1,900.00 for an "on-sale" license and \$100.00 for an "off-sale" 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 to 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. Each 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 5. 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 "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 6. PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person made ineligible for such license by state law. No license shall be issued to an individual who is not a resident of the City.

SECTION 7. PLACES INELIGIBLE FOR LICENSE.

Subdivision 1. General Prohibition. No license shall be issued for any place or any business ineligible for such license under state law.

Subdivision 2. Delinquent Taxes or Charges. No license shall be granted for operation of any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

SECTION 8. 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 applicable 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 in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor 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. Hours of Operation. No sale of intoxicating liquor shall be made at any time when the sale of intoxicating liquor shall be prohibited by State Law.

All persons, except the licensee, his bona fide employees, and law enforcement officers, shall be excluded from the premises within thirty minutes after the expiration of the time on any day when intoxicating liquor may be legally sold therein. It shall be

unlawful to permit the consumption or displaying of intoxicating liquors later than thirty minutes after the sales must terminate. It shall be conclusively presumed that any intoxicating liquor remaining on the bar or in a booth or on a table thereafter shall be for the purpose of consuming the same in violation of this section.

The named licensee shall be responsible for the enforcement of this section and failure to do so shall be a violation of this ordinance whether the named licensee, or any officer thereof, be physically present when the offense occurs.

If the licensee is operating any other lawful business in the building in which the licensed bar is located, no intoxicating liquor shall be served, or permitted to be consumed, on the premises where such other business is conducted during the time when the bar must be closed as aforesaid.

Subdivision 5. Display During Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subdivision 6. Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

SECTION 9. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subdivision 1. Liquor in Unlicensed Places.

a. No person shall mix or prepare liquor for consumption in any public 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.

b. No liquor shall be sold or consumed on a public highway or in an automobile in any public place in the City of New Munich. It shall also be unlawful to carry an open container of any intoxicating liquor or consume any intoxicating liquor on any public street, alley, parking lot or sidewalk in the City of New Munich.

Subdivision 2. Licensed Places.

a. No persons to whom the sale of intoxicating liquor is forbidden by state law shall misrepresent his age for the purpose of obtaining intoxicating liquor nor shall he enter any licensed premises under this ordinance in order to procure said beverages, or to consume or purchase, or attempt to purchase, or have another purchase for him, such beverages on licensed premises

b. No person shall induce a person to whom the sale of intoxicating liquor is forbidden by state law to purchase or procure liquor, nor shall any persons to whom the sale of intoxicating liquor is forbidden, be permitted to remain in any place where intoxicating liquors are sold or given away, for any purpose whatsoever. The licensee shall be responsible for the enforcement of this provision. Permitting a person to whom the sale of intoxicating liquor is forbidden to remain on the premises, for any purpose whatsoever, shall be a violation of this ordinance by the licensee.

c. No person shall give, procure, or purchase liquor for any person to whom the sale of intoxicating liquor is forbidden by state law.

d. No person shall refuse to show proper identification to the bartender or police officer when requested to do so. Refusal to do so shall be a violation of this ordinance, if the person is then in an establishment licensed to sell intoxicating liquor.

e. All intoxicating liquor sold "on-sale" shall be possessed and consumed inside the building where purchased "on-sale". No person shall possess or consume any intoxicating liquor outside the building of an "on-sale" business if said intoxicating liquor was purchased "on-sale". The licensee shall be responsible for the enforcement of this provision, and permitting a person possessing intoxicating liquor purchased "on-sale" to leave the building shall be a violation of this ordinance by the licensee.

SECTION 10. 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 an 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, Sections 15.0418 to 15.0426.

The City of New Munich shall grant not more than:

1 "On-Sale"

1 "Off-Sale"

licenses at any one time.

SECTION 11. REPEAL.

Ordinance No. 28, adopted June 28, 1938, and all amendments thereto, is hereby repealed.

SECTION 12. PENALTY.

Any person violating any provisions of this ordinance including the provisions of Chapter 340, Minnesota Statutes, which have been adopted by reference, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00 or by imprisonment in the County Jail for not more than ninety (90) days, plus costs or prosecution in either case.

SECTION 13. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after April 1, 1978.

Passed by the Council this 27th day of February, 1978.

CITY OF NEW MUNICH

By: Ralph Wasson
Mayor

ATTEST:

Richard Battle
Clerk