

ORDINANCE NO. 455

ALCOHOLIC BEVERAGES

Section 1.1 Repeal

All prior alcoholic beverage regulation ordinances by the City of Rolla are hereby repealed including but not limited to Ordinance No. 317, 324, 331, 332, 373, 386, 391, 406.

Section 1.2 Definitions

For the purpose of this article:

1. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" means any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Licensee" means any person, firm, corporation, association or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" means any alcoholic beverage except beer.
5. "Person" means and includes any individual, firm, corporation, association, club, co-partnership, society or any other organization; and shall include the singular and the plural.
6. "Sale" and "sell" mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" includes any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 10 members at the time of application for license.
9. "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.
12. "Sparkling wine" means wine made effervescent with carbon dioxide.
13. "Wine" means the alcoholic beverage obtained by fermentation of agriculture products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume

Section 1.3 Exceptions

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1. This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.
2. This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
 - a. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder.
 - b. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations.
 - c. Flavoring extracts, syrups and food products.
 - d. Scientific, chemical and industrial products; nor to the manufacturer or sale of said articles containing alcohol.

Section 1.4 License Required

No person shall sell at retail within the city limits of this City any alcoholic beverage without first having obtained a license therefore as herein provided. This section shall not apply to public carriers engaged in interstate commerce.

Section 1.5 Licenses - Classes of - Fees

The fees for each class of license shall be as set forth in the Fees and Rates Resolution .

1. On and Off Sale Beer & Liquor License
2. Off Sale Beer & Liquor License
3. On Sale Beer & Wine License
4. Club License

Section 1.6 Licenses - Terms of

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of days which said license will be in effect.

Section 1.7 License - Qualifications for

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a legal resident of the United States, a resident of the State of North Dakota and a person of good moral character.
2. If applicant is a corporation or limited liability company, the manager of the licensed premises and the officers, directors, shareholder, or members must be legal residents of the United States and persons of good moral character. Corporate and limited liability applicants must first be properly registered with the North Dakota Secretary of State.
3. If applicant is a partnership, the manager of the licensed premises and all of the members must be legal residents of the United States and of good moral character. Partnership applicant must first be properly registered with the North Dakota Secretary of State.

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4. Applicant or manager must not have been convicted of an offense determined by the North Dakota Attorney General to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer.
5. Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
6. Taxes on property for which application for license is made must not be delinquent.
7. If applicant's business at the licensed location is to be conducted by a manager or agent, the manager or agent must possess the same qualifications required of the licensee.

Section 1.8 Application for Liquor License

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the City governing body, filed with the city auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated, the purpose for which said corporation was incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. Whether there are any delinquent taxes against the premises sought to be licensed.
5. Whether the applicant has ever had a license revoked or cancelled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling the same and the reason for such cancellation.
6. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of place and courts in which said convictions were had.
7. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation and the reasons assigned therefore.
8. Whether the applicant has ever been convicted of any other crime than stated in subsections (6) and (7) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed and the court in which convicted.
9. The classification of license applied for.

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10. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body a list of the members belonging to such lodge or club.
11. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.

Section 1.9 License - Application Fitness

The chief of police or such other person or officer as may be designated by the governing body shall, upon the filing of an application investigate the facts as stated in the application and the character, reputation and fitness of the applicant and shall report on said matters to the governing body.

Section 1.10 License - Location of

No license shall be issued or transferred to any person, firm or corporation to engage in the sale of beer or alcoholic beverages within the City without approval as to the location of said licensed business by the City governing body. The application for approval shall be in writing and shall be filed with the City governing body. At the time of hearing, the City governing body shall in its discretion determine if said location is in harmony with the public interest and welfare of the community and shall consider among other things the following factors:

1. The convenience of police regulations.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on- or off-sale or both licensee.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

Section 1.11 License - Granting

After the City governing body has received the application as provided herein, they shall meet and consider the same. If the City governing body finds that the applicant meets the qualifications for a license and are satisfied as to the completeness and the accuracy of the information contained in the application, they may grant the license. If the City governing body finds that the applicant does not meet the qualifications or they are not satisfied as to the completeness or accuracy of the information, they may request that the applicant supply more verified information to the City governing body or they may reject the application.

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Section 1.12 License - Limit to One Location

Each license shall be valid only for the specific premises licensed.

Section 1.13 License - Posting of

License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

Section 1.14 License - Transfer of

No license under the provisions of this article shall be transferable and any attempt to do so shall constitute a violation of the provisions of this article.

Section 1.15 License Fees - Disposition of

All license fees collected under this article shall be transferable to the city auditor and credited to the general fund of the City.

Section 1.16 Hours and Time of Sale - Penalty

Anyone who dispenses or permits the consumption of alcoholic beverages on a licensed premises between two a.m. and eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week or who dispenses or permits such consumption on Christmas Day, after six p.m. on Christmas Eve, or provides off sale service after two a.m. on Thanksgiving Day is guilty of an offense which is punishable by a fine of up to five hundred dollars (\$500.00) and possible suspension or revocation of license.

Section 1.17 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of the licensee's place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person.

Section 1.18 Gambling Prohibited - Exceptions

No licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board or any other machine or device of similar nature, nor shall gambling whether by cards, dice or otherwise, of any nature, be permitted upon the licensed premises. Any violation of this section shall be sufficient cause for the revocation of the license issued hereunder. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting permit issued by the City governing body or license issued by the State of North Dakota.

Section 1.19 Cashing Certain Checks Prohibited

No licensee hereunder shall cash any bank check, voucher, order or document of any kind drawn by a county welfare board or any state or federal agency in payment for wages made for work done on any so-called work relief project, or for relief purposes, which by its terms authorizes or permits any person presenting such bank check, voucher, order or document to receive payment of money.

Section 1.20 Sales Prohibited - Persons

No licensee, his agent or employee shall sell any alcoholic beverages to a person under twenty-one (21) years of age, a habitual drunkard, an incompetent or an intoxicated person.

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Section 1.21 Minors in Licensed Premises

No licensee shall permit any person under twenty-one (21) years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under twenty-one (21) years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separate from the room in which alcoholic beverages are opened or mixed.

An individual under twenty-one years of age may enter and remain on a licensed premise while alcohol is being sold or displayed at the discretion of the owner of the licensed premises, if:

1. The individual is accompanied by a parent or guardian who is twenty-one years of age or older. For purposes of this section, "guardian" means an individual who has the legal responsibility for the health and well-being of the individual under twenty-one years of age;
2. The individual is on the premises to consume a meal or in an emergency situation;
3. The premise serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
4. The individual is not on the licensed premises after ten p.m.; and
5. The owner of the licensed premises receives permission of the city governing body for individuals to be on the premises as allowed under this section and the licensed premises is located in a city with a population of one thousand five hundred or fewer people.

Section 1.22 Age Identification

Before selling alcoholic beverages to any person, or before determining whether any person shall remain upon the licensed premises a licensee, his agent or employee may require a statement in writing and signed by said person of such person's age. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of a violation of this article.

Section 1.23 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited, with the exception of a legally obtained event permit.

Section 1.24 Premises, Equipment of

Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths and stools in a sufficient number to accommodate reasonably the patrons.

Section 1.25 Closed or Screened Areas

No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths or other screened enclosures nor shall any screen, partition, curtain, blind or obstruction of any kind prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises and shall be accessible from the aisles therein.

Section 1.26 Purchase from Licensed Wholesaler

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title 5 of the

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North Dakota Century Code. Each licensee hereunder shall keep on file all invoices covering purchases of such alcoholic beverages showing the name and license number of the wholesaler. Such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of the State of North Dakota.

Section 1.27 Toilets Required

Premises where an on-sale license is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The on-sale license may be revoked when the foregoing requirements, or any other health ordinance or regulation, are not at all times strictly observed.

Section 1.28 Deliveries - Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage to any person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer. This section shall not apply to any direct shippers licensed by the State of North Dakota and sending deliveries by commercial carriers to residents of the city pursuant to a valid state license.

Section 1.29 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and terminated upon the happening of any one or more of the following contingencies:
 - a. The death of the licensee unless upon application to the City governing body by personal representative of the decedent, the City governing body consents to the carrying on of the business by the personal representative.
 - b. When the licensee ceases business at the location licensed, unless a new location has been approved.
 - c. When the licensee is adjudged bankrupt.
 - d. When the licensee has been convicted of the violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages or of a felony under the laws of the United States, the State of North Dakota or of any other state of the United States.
 - e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
 - f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or revoked.
2. License issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:
 - a. When the licensee has been convicted of violating any of the provisions of this article.
 - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the City.
 - c. When the licensee, if an individual, or one of the partners, if the licensee is a partnership, or one of the officers or the manager if the licensee is a corporation, be convicted in the municipal

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court of the City of drunkenness or disorderly conduct, or if any appeal is taken from such conviction then when such conviction be sustained by the higher court or courts.

3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and a license may also be cancelled and revoked or suspended at any time by the City governing body for any cause deemed by the City governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.
4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through the licensee.

Section 1.30 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed five hundred dollars (\$500.00). In addition, all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with Section 1.29.

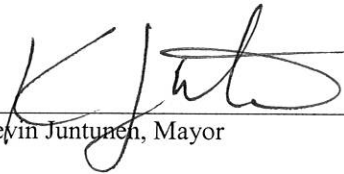
Section 1.31 Event Permit

1. The governing body of the city may by special permit authorize a qualified alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events designated by the permit. A "qualified alcoholic beverage licensee" shall mean a holder of a licenses pursuant to this article. The permit may not be valid for a period greater than fourteen consecutive days and may include Sundays. The permit may be issued for a location other than the primary place of business of the license holder.
2. An application for a special permit must be filed by a licensee with the city auditor. The application shall contain the following:
 - a. The name of the licensee;
 - b. The type of event for which the permit is desired;
 - c. The dates and times for which the permit is desired;
 - d. Whether the permit is requested for the sale of all alcoholic beverages, beer, wine, sparkling wine or any combination thereof;
 - e. The specific location at which the event will take place, including a diagram of the area to be licensed and specifically identifying where persons under twenty-one years of age may be present.
3. Applications submitted pursuant to this section must be submitted at least thirty (30) days prior to the first day of the event; however, the city governing body may, at its discretion, waive the thirty (30) day requirement.
4. The permit may authorize persons under twenty-one years of age to remain in the areas of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization is subject to the following conditions:
 - a. The area where persons under 21 years of age may remain must be specifically set forth in the permit.
 - b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine.
 - c. No person under twenty-one years of age within the area described in the permit may consume, possess or receive alcoholic beverages.

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5. The fee for an event permit shall be established, and may be revised, by resolution enacted by the city governing body.



Kevin Juntunen, Mayor

ATTEST:



Erica McDougall, Auditor

FIRST READING:

November 16, 2022

SECOND READING / FINAL PASSAGE:

December 21, 2022