

**AN ORDINANCE LICENSING AND REGULATING THE  
SALE AND CONSUMPTION OF INTOXICATING LIQUOR,  
3.2 PERCENT MALT LIQUOR, AND WINE**

This ordinance repeals Ordinances 45, 55, and 58 and all other prior inconsistent ordinances and provides a penalty for violation thereof.

**SECTION I. PROVISIONS OF STATE LAW ADOPTED.** Subd. 1. The provisions of Minn. Stat. § 340A, relating to the definition of terms, licensing, consumption, sales, and conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor, 3.2 percent malt liquor, and wine, hereinafter alcoholic beverages, are adopted and made a part of this ordinance as if set out in full, except as herein altered or modified.

a. **Special Definitions.**

- i. Unless otherwise indicated, the term license, in this ordinance, refers to intoxicating liquor, 3.2 percent malt liquor, and wine.
- ii. Alcoholic beverages shall mean intoxicating liquor, 3.2 percent malt liquor, or wine, or any beverage containing more than one-half of one percent alcohol by volume.
- iii. For purposes of this subdivision, open container is defined as any type of container from which a liquid may be readily poured, consumed, or otherwise removed without first requiring the removal of a cap, lid, cover, or other simulated device from the container.

**SECTION II. 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 alcoholic beverage without a license to do so as provided in this ordinance.

Subdivision 2. On-sale Licenses. "On-sale" licenses shall be issued only to clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of alcoholic beverages only.

Subdivision 3. Off-sale Licenses. "Off-sale" licenses shall be issued only to exclusive liquor stores or to a drugstore and shall permit "off-sales" of alcoholic beverages only.

Subdivision 4. Special Club Licenses. "Special club licenses" shall be issued only to incorporated clubs which have been in existence for ten or more years or to congregationally-chartered Veteran's organizations, provided that the organization has been in existence for at least three years. In any event, "special club licenses" will be for alcoholic beverage sales only to members and bona fide guests.

Subdivision 5. On-sale and Off-sale Intoxicating Liquor License. The City of New Munich may issue an off-sale and on-sale intoxicating liquor license to the same licensee.

Subdivision 6.

a. Licensing and Regulation of the Sale and Consumption of Wine. The provisions of Minn. Stat. § 340A relating to the definition of terms, licensing, consumption, sales and conditions of bonds of licenses, hours of sales, and all other matters pertaining to the retail sale, distribution and consumption of wine not exceeding 14 percent alcohol by volume for consumption on a licensed premises only, in conjunction with

the sale of food, are adopted and made a part of this ordinance as if set out in full.

b. Wine Licenses. No person except a wholesaler or manufacturer to the extent authorized under state license and license authorized under the liquor ordinance of the City of New Munich, including bona fide clubs, shall directly or indirectly deal in, sell, or keep for sale in the City of New Munich, any wine not exceeding 14 percent alcohol by volume without an "on-sale" wine license. An "on-sale" wine license authorizes 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. An "on-sale" wine license may be issued only to a licensed restaurant having facilities for seating not fewer than 25 guests at one time. For the purpose of this ordinance, a restaurant is an establishment under the control of a single proprietor or manager, having appropriate facilities for serving meals, and wherein consideration for payment thereof, meals are regularly served at tables to the general public which employs an adequate staff to provide the usual and suitable service to its guests.

Subdivision 7. One-Day City Permits. The City of New Munich may issue a one-day permit for the consumption and display of intoxicating liquor to a non-profit organization in conjunction with a social activity in the city, sponsored by the organization. The permit must be approved by the Minnesota Commissioner of Public Safety and is valid only for the day

indicated on the permit. The fee for the permit shall not exceed \$25.00. The City of New Munich will not issue more than ten (10) permits under this subdivision in any one year.

**SECTION III. APPLICATIONS FOR LICENSE.**

Subdivision 1. Form. Every application for a license to sell any alcoholic beverages shall state the name of the applicant, his or her age, representations as to his or her character, with such references as the council may require, his or her 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 the owner and operator of the business, how long he or she 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 Minnesota Commissioner of Public Safety and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

Subdivision 2. Persons Eligible. No license to sell alcoholic beverages may be issued to:

- a. a person not a citizen of the United States or a resident alien;
- b. a person under 21 years of age;
- c. a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, where there is a holder of more than five percent 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;

- d. a person not of good moral character or repute; or
- e. a person who has direct or indirect interest in a manufacturer, brewer, or wholesaler business.
- f. a person who directly or indirectly has an interest in any other establishment in the municipality to which a license of the same class has been issued under this ordinance.
- g. no new retail license may be issued to and the governing body of the municipality may refuse to renew the license of a person who, within five years of the license application, has been convicted of a felony or willful violation of a Federal, State, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage.

Subdivision 3(a). Preliminary Investigation. On an initial application for a license to sell any alcoholic beverage and on application for transfer of an existing license, the applicant shall pay, with his application, an investigation fee, not to exceed Five Hundred and no/100 (\$500.00) Dollars and 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 of Minnesota and with such additional information as the council may require. If the council deems that it is in the public interest to have an investigation made on a particular application for renewal of an alcoholic beverage license, it shall so determine. In any case, if the council deems that a comprehensive background and financial investigation of the applicant is necessary, it may

conduct the investigation itself or contract with the Bureau of Criminal Investigation 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's interest. If an investigation outside the state is required, the applicant shall be charged the cost not to exceed \$200.00 and shall be paid by the applicant, after deducting any initial investigation fee already paid.

(b). Hearing and Issuance. The city council shall investigate all defects set out in the application and those not investigated in the preliminary background and financial investigation conducted pursuant to Section IV, subdivision 1. 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 Minnesota Commissioner of Public Safety.

Subdivision 4. Liability Insurance. No alcoholic beverage license, excluding temporary licenses, may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability posed by Minn. Stat. § 340A.409 and § 340A.801, to the Minnesota Commissioner of Public Safety and the city clerk as a condition of the issuance or renewal of his or her license.

Proof of financial responsibility may be given by

filing:

(a). a certificate that there is in effect an insurance policy or pool providing the following minimum coverages:

1. Fifty Thousand and no/100 (\$50,000.00) Dollars because of bodily injury in any one person or in any occurrence, and subject to the limit for one person, in the amount of One Hundred Thousand and no/100 (\$100,000.00) Dollars because of bodily injury to two or more persons in any one occurrence, and in the amount of Ten Thousand and no/100 (\$10,000.00) Dollars because of injury to or destruction of property of others in any one occurrence;
2. Fifty Thousand and no/100 (\$50,000.00) Dollars for loss of means of support of any one person in any one occurrence, and subject to the limit for one person, One Hundred Thousand and no/100 (\$100,000.00) Dollars for the loss of means of support of two or more persons in any occurrence; or
3. A bond or a surety company with minimum coverages as provided above; or
4. A certificate of the State Treasurer that the licensee has deposited with him or her One Hundred Thousand (\$100,000.00) Dollars in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of One Hundred Thousand (\$100,000.00) Dollars.

b. The liability policy recorded by this subdivision shall provide that it may not be cancelled for any cause, either by the insured or the insurance company without first giving ten days' notice to the city in writing of the intention to cancel it. Such notice shall be addressed to the city clerk.

c. The operation of any business which holds a retail license to sell alcoholic beverages, without having on file at all times with the city clerk, the liability insurance policies herein referred to, shall be grounds for immediate revocation of the license. Lapse of insurance or other evidence

of financial responsibility will trigger an automatic revocation of the license. Notice of a cancellation of a current liquor liability insurance policy shall also serve as notice to the licensee of the impending revocation and that unless evidence of compliance with the financial responsibility requirement is presented to the city clerk before the termination is effective, the license will be revoked instantly upon the lapse of insurance or other financial responsibility.

d. Liability insurance referred to in this ordinance will not be required if the licensee provides an affidavit which establishes that:

1. they are "on-sale" 3.2 percent malt liquor licensees with sales of less than Ten Thousand and no/100 (\$10,000.00) Dollars of 3.2 percent malt liquor for the preceding year;
2. they are "off-sale" 3.2 percent malt liquor licensees with sales of less than Twenty Thousand and no/100 (\$20,000.00) Dollars of 3.2 percent malt liquor for the preceding year.
3. They are holders of "on-sale" wine licenses with sales of less Ten Thousand and no/100 (\$10,000.00) Dollars for wine in the preceding year.

Subdivision 4. Special Restrictions for 3.2 Percent

Malt Liquor License.

- a. No sale of 3.2 percent malt liquor shall be made to anyone on credit.
- b. No licensee shall sell 3.2 percent malt liquor while holding or exhibiting in the licensed premises a Federal retail liquor dealer's special tax stamp unless he or she is licensed under the laws of the State of Minnesota to sell intoxicating liquors.

SECTION IV. LICENSE FEES.

Subdivision 1. The annual fee for an "on-sale" intoxicating liquor license shall be \$1,100.00. The annual fee

for an "off-sale" intoxicating liquor license shall be \$100.00. The fee for any special club license shall be in accordance with Minn. Stat. § 340A.408, subd. 2(b).

Subdivision 2. 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, the license may be issued for the remainder of the year for a pro rate fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on 1st day of July.

Subdivision 3. Refunds. No part of the fee paid or any license issued under this ordinance shall be refunded except in the following instances upon application to the city council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis when operation of the license business ceases not less than one month before expiration of the license because:

- a. destruction or damage to the licensed premises by fire or any other catastrophes;
- b. the licensee's illness;
- c. the licensee's death;
- d. a change in the legal status of the municipality making it unlawful for the licensed business to continue.

Subdivision 4. 3.2 Percent Malt Liquor License Fees. The annual fee shall be determined by the city council from time to time. Each application for a license shall be accompanied by a receipt from the city treasurer for payment in full of the

required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of the application for a license, the treasurer shall refund the full amount of the application fee.

Subdivision 5. Wine License Fee. (a). The annual fee for a wine license will be established by the city council from year to year. Payment with the application for each wine license will 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 full amount paid. (b). The license fee for the issuance of a wine license may not exceed one-half of the license fee charged for an on-sale intoxicating liquor license or \$2,000.00, whichever is less.

Subdivision 6. Term. Each license for alcoholic beverages shall be issued for a period of one year except that if the application is made during the license year, the license may be issued for the remainder for the year for a pro rata fee, with any unexpired fraction of a month being counted as a full month. Every license shall expire on the 1st day of July of each year.

Subdivision 7. Time in Business. No license shall be issued to any restaurant until it has been in operation continuously for least \_\_\_\_\_.

**SECTION V. PERSON AND PREMISES LICENSED; TRANSFER.** Each license for alcoholic beverages shall be issued only to the applicant and for the premises described in the application. No

such 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 that license.

**SECTION VI. 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 or 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.

**SECTION VII. CONDITIONS OF LICENSE.**

Subdivision 1. General Requirement. Every licensee is subject to the conditions in the following subdivisions and all other provisions of this ordinance and 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 alcoholic beverages 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 the business hours and within two hours after the closing time, or as prescribed by law, without a warrant.

**SECTION VIII. HOURS OF OPERATION. APPLICABILITY OF STATE LAWS.**

Subdivision 1. Prohibition.

- a. No sale of alcoholic beverages shall be made at any time when such sale shall be prohibited by State law.

Subdivision 2. Sunday Liquor Law.

- a. A restaurant, club, bowling center, or a hotel with a seating capacity for at least 30 persons, and which holds a license to sell alcoholic beverages may sell alcoholic beverages for consumption on the premises in conjunction with the sale of food between the hours of 12:00 noon on Sundays and 1:00 a.m. on Mondays.
- b. Any establishment referred to in (a), serving intoxicating liquor on-sale on Sundays, must obtain a Sunday license. The license issued by the City of New Munich will be for a period of one year. The fee for the Sunday intoxicating liquor license shall not exceed \$200.00. (c) The sale of alcoholic beverages on Mondays between the hours 12:00 midnight and 1:00 a.m. is permitted unless otherwise prohibited by State law.

Subdivision 3. Display of Liquor After Hours. All persons, except the licensee, his bona fide employees, and law enforcement officers, shall be excluded from the premises within 30 minutes after the expiration of the time on any day when alcoholic beverages may be legally sold therein. It shall be

unlawful to permit the consumption or displaying of alcoholic beverages later than 30 minutes after the sales must terminate. It shall be conclusively presumed that any alcoholic beverage remaining on a bar, in a booth, or on a table thereafter shall be for the purpose of consuming the same in violation of this section.

Subdivision 4. Enforcement by Licensee. The named licensee of an alcoholic beverage license 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 occurred.

If the licensee is operating any other lawful business in the building in which the licensed bar is located, no alcoholic beverages shall be served nor permitted to be consumed on the premises where such other business is conducted during the time when the bar must be closed as aforesaid.

**SECTION IX. Availability of Licenses.**

Subdivision 1. On-sale Intoxicating Liquor and Wine Licenses. The City of New Munich may issue an intoxicating liquor and wine license provided all other terms of this ordinance and applicable State law or any other regulations have been complied with for the following establishments: hotels, restaurants, bowling centers, exclusive liquor stores, and clubs or congregationally-chartered Veteran's organizations, provided that the organization has been in existence for at least three

years and liquor sales will only be to members and bona fide guests.

Subdivision 2. Off-sale Intoxicating Liquor Licenses.

The City of New Munich may issue, with the approval of the Commissioner of Public Safety, an off-sale intoxicating liquor license to an exclusive liquor store or to a drugstore.

Subdivision 3. 3.2 Percent Malt Liquor Licenses. The

City of New Munich may issue, with the approval of the Commissioner of Public Safety, a 3.2 percent malt liquor license to an exclusive liquor store or to a drugstore.

SECTION X. Restrictions on Purchase and Consumption.

Subdivision 1. Persons to whom sale is illegal. No person to whom the sale of alcoholic beverages is forbidden by State law shall misrepresent his or her age for the purpose of obtaining alcoholic beverages nor shall he or she enter any licensed premises under this ordinance in order to procure said beverages or to consume, purchase or attempt to purchase, or have another purchase for that person, such beverages on the licensed premises.

Subdivision 2. No person shall induce a person to whom the sale of alcoholic beverages is forbidden by State law to purchase or procure said alcoholic beverages.

Subdivision 3. No person shall mix or prepare any alcoholic beverage for consumption in any public place of business unless it has a license to sell liquor "on-sale," or a

permit from the Commissioner of Public Safety and no person shall consume alcoholic beverages in any such place.

Subdivision 4. No alcoholic beverage 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 be unlawful to carry an open container of any alcoholic beverage or consume any alcoholic beverage on any public street, alley, parking lot, or sidewalk in the City of New Munich.

Subdivision 5. All "on-sale" alcoholic beverages shall be possessed and consumed inside the building where purchased "on-sale." No person shall possess or consume any alcoholic beverage outside the building of an "on-sale" business. If said alcoholic beverage is purchased "on-sale," the licensee shall be responsible for the enforcement of this provision in permitting a person possessing alcoholic beverages purchased "on-sale" to leave the building shall be in violation of this ordinance by the licensee. No person shall refuse to show proper identification to a bartender or police officer when requested to do so. Refusal to do so shall be a violation of this ordinance if the person is in an establishment licensed to sell alcoholic beverages.

Subdivision 6. It is unlawful for any person under 21 years of age to possess any alcoholic beverage with the intent to consume it at a place other than the household of the person's parent or guardian.

Subdivision 7. It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any liquor store for the purpose of purchasing or having served or delivered any alcoholic beverage.

Subdivision 8. No sale or delivery of 3.2 percent malt liquor in a keg or any other container having a capacity greater than one gallon shall be made at any time the "off-sale" of 3.2 percent malt liquor shall be prohibited by state law or this ordinance.

**SECTION XI. Suspension and Revocation.**

Subdivision 1. Procedures. The city council may either revoke or suspend, for a period not to exceed 60 days, any license to sell alcoholic beverages and/or assess a civil monetary fine of not more than Two Thousand and no/100 (\$2,000.00) Dollars per violation, upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for hearing, pursuant to Minn. Stats. § 15.04182 and § 15.0426.

**SECTION XII. Temporary Licenses.**

Subdivision 1. Granting of Temporary Intoxicating Liquor Licenses. The City of New Munich may issue a temporary intoxicating liquor license to:

- a. a club or charitable, religious, or non-profit organization in existence for at least three years.

- b. a club or charitable, religious, or non-profit organization in connection with a social event within the jurisdiction of the City of New Munich, sponsored by the licensee.
- c. The licensee may authorize the on-sale of intoxicating liquor for not more than three consecutive days and may authorize on-sales on premises other than the premises the licensee owns or permanently occupies.
- d. 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 any municipality.
- e. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of alcoholic beverages except pertaining to liability insurance.
- f. Licenses under this subdivision are not valid unless first approved by the Minnesota Commissioner of Public Safety.

Subdivision 2. Temporary 3.2 Percent Malt Liquor

Licenses. The City of New Munich may grant temporary licenses to sell "on-sale" 3.2 percent malt liquor to:

- a. A club or charitable religious or non-profit organization in existence for at least three years;
- b. The licensee may authorize the on-sale of 3.2 percent malt liquor for not more than three consecutive days and may authorize on-sale, on premises, other than the premises the licensee owns or permanently occupies.
- c. The license may provide that the licensee may contract for 3.2 percent malt liquor catering services with the holder of a full year on-sale 3.2 percent malt liquor license issued by any municipality.
- d. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of 3.2 percent malt liquor except pertaining to liability insurance.

- e. Licenses under this subdivision are not valid unless first approved by the Minnesota Commissioner of Public Safety.

SECTION XIII. Bottle Clubs. Bottle clubs, as defined under Minn. Stat. § 340A.101, shall be prohibited within the city limits of New Munich. It shall be unlawful for any private club or for any business establishment without an authorized "on-sale" liquor license, directly or indirectly or upon any pretense or by any device, to allow the consumption or display of any alcoholic beverages the serving of any liquid for the purpose of mixing of intoxicating liquor.

SECTION XIV. Liquor License Numbers.

Subdivision 1. Limitation on "On-sale" Licenses. (a)

The number of "on-sale" alcoholic beverage licenses which may be issued under this ordinance shall be limited to three licenses.

(b)(1) The City of New Munich may issue on-sale intoxicating liquor licenses over the number permitted under subdivision (a), when authorized by the voters of the city at a general election. The number in excess of that stated in subdivision (a), that can be placed on the ballot, shall be determined by the city council to be either an unlimited amount or a determined amount by the city council.

Subdivision 2. Limitation of Exclusive "Off-sale" Liquor License. The number of exclusive "off-sale" liquor licenses ("off-sale" license is not held and operated in conjunction with an "on-sale") which may be issued under this

ordinance shall be based upon the population of the City of New Munich and in accordance with Minn. Stat. § 340A.

The population of the City of New Munich shall be established by the official census of the United States Department of Commerce or the official population estimates produced by the state demographer's office, whichever is most current.

SECTION XV. Penalty. The penalty for violating any provision in this ordinance is a misdemeanor. Misdemeanor penalty calls for a maximum sentence of \$700.00 and/or 90 days in jail.

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Passed by the City Council this 2nd day of January, 1995.

City of New Munich  
By: *Harold Klybake*  
Mayor

ATTEST: *Charlotte T. Nielsen*  
City Clerk

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