

ORDINANCE NO. 129

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

The Council of the City of Lambertton ordains:

Section 1. Provisions of State Law Adopted.

The provisions of Minnesota Statutes, Chapter 340A, 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, on any pretense or by any device, sell, deal in, barter, keep for sale, gift or otherwise dispose of intoxicating liquor in the city without a license to do so as provided in this ordinance. Liquor licenses shall be of five kinds: "on-sale", "on-sale wine", "off-sale", club licenses, and temporary consumption and display permits.

Subdivision 2. On-sale licenses. "On-sale" licenses shall be issued only to hotels, clubs, restaurants, or congressionally chartered veterans organizations provided that the organization has been in existence for at least three years and liquor sales will be only to members and bona fide guests, and exclusive liquor stores and shall permit the sale of alcoholic beverages for consumption on the licensed premises only. Any person licensed to sell intoxicating malt beverages at "on-sale" shall not be required to obtain an "on-sale" non-intoxicating liquor license and may sell non-intoxicating malt beverages at "on-sale" without further license.

Subdivision 3. Off-sale licenses. "Off-sale" licenses shall be issued only to drug stores and exclusive liquor stores and shall permit the sale of alcoholic beverages in original packages for consumption off the licensed premises only. Any person licensed to sell intoxicating liquor at "off-sale" shall not be required to obtain an "off-sale" license for the sale of non-intoxicating malt beverages and may sell non-intoxicating malt beverages at "off-sale" without further license. An "off-sale" intoxicating liquor license may not be issued to a place where non-intoxicating malt liquor is sold for consumption on the premises. No intoxicating liquor license may be issued to a person operating a drug store unless the person has operated it for at least two years or has purchased a drug store that has been in continuous operation for two or more years.

Subdivision 4. On-sale wine licenses. "On-sale wine" licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes, Section 340A.404, Subdivision

5 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 5. Special club licenses. Special club licenses shall be issued only to incorporated clubs, as hereinafter defined, which have been in existence for 15 years or more or to congressionally chartered veterans' organizations which have been in existence for 10 years. "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 veteran's organization, which:

- (a) has more than 50 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 accomodation 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.

Subdivision 6. Temporary consumption and display permits. A one-day intoxicating liquor consumption and display permit may be granted to a club or charitable, religious, or other non-profit organization in existence for at least three years for the "on-sale" of intoxicating liquor in connection with a social event within the city sponsored by the licensee. The license may authorize the "on-sale" of intoxicating 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. 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 municipality. Licenses under this subdivision are not valid unless first approved by the Commissioner of Public Safety. No more than ten such licenses shall be issued in the municipality in any year and the permit shall be valid only for the days indicated on it.

Section 3. 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 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 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. 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 340A.412. Such surety bond or other security shall be in the sum of \$3,000 for an applicant for an "on-sale" license or an "on-sale wine" license and \$1,000 for an applicant for an "off-sale" license.

Subdivision 3. Liability Insurance. Prior to the issuance of a liquor license, the applicant shall file with the City Clerk a liability insurance policy providing the following coverages:

(a) Fifty Thousand Dollars (\$50,000.00) resulting in bodily injury to any one person in any one occurrence, and

(b) Subject to the limit for one person expressed in Paragraph (a) above, One Hundred Thousand Dollars (\$100,000.00) resulting in bodily injury to two or more persons in any one occurrence, and

(c) Ten Thousand Dollars (\$10,000.00) resulting in injury to or destruction of property of others in any one occurrence, and

(d) Fifty Thousand Dollars (\$50,000.00) 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 Dollars (\$100,000.00) for loss of means of support of two or more persons in any one occurrence,

and shall comply with the provisions of Minnesota Statutes, Section 340A.412 relating to liability insurance policies.

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 commissioner of public safety. 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 of revocation of the license.

Section 4. License Fees.

Subdivision 1. Fees. The annual fees for all licenses shall be established by resolution of the city council from time to time.

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 and the fixed investigation fee required under Section 5, Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid as the license fee.

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 ~~July~~ December.

Subdivision 4. Refunds. No refund of any fee shall be made except as authorized by statute.

Section 5. Granting of Licenses.

Subdivision 1. Preliminary Investigation. On an initial application for an "on-sale" license and on application for transfer of an existing "on-sale" license, 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 bureau of criminal apprehension and with such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an "on-sale" 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 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 interest. In all cases, the fee for any background and financial investigations under this section conducted within the state, shall be the actual costs incurred by the City of Lambertton, not to exceed \$500, and shall be paid by the applicant. Investigations conducted outside the state shall be the actual costs incurred by the City of Lambertton, not to exceed \$10,000 and shall be paid by the applicant.

Subdivision 2. Hearing and Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to 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 be come effective until it, together with the security furnished by the applicant, has been approved by the commissioner of public safety.

Subdivision 3. 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.

Subdivision 1. Persons ineligible. No retail license may be issued to:

- (a) A person who is not a citizen of the United States or a resident alien;
- (b) A person under 19 years of age;

(c) A person who within 5 years of the license application has been convicted of a wilful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of intoxicating or non-intoxicating malt liquor;

(d) A person who has had an intoxicating liquor or non-intoxicating liquor license revoked within 5 years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five (5) percent of the capital stock of a corporation license, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm which any such person is in any manner interested;

(e) A person not of good moral character and repute;

(f) A person who is not a resident of the city; or

(g) A person who has already been issued, directly or indirectly, one intoxicating liquor license.

Section 7. 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.

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

Subdivision 4. Closing Times. The premises for which an "on-sale" license is granted shall be closed to the public no later than 1:30 AM on any week day, and no individuals, except for the licensee and/or his employees, shall be present on the premises when closed.

Subdivision 5. Restrictions For "Off-sales". No "off-sale" shall be made on New Year's Day, January 1st; Memorial Day; Independence Day, July 4th; Thanksgiving Day; Christmas Day, December 25th; nor after 8:00 P.M. on Christmas Eve, December 24th.

Subdivision 6. Interest of Manufacturers and Wholesalers. No manufacturer or wholesaler of intoxicating liquor shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes Section 340A.301, Subdivision 7. No retail licensee and manufacturer or wholesaler of intoxicating liquor shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of intoxicating liquor and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subdivision 7. Restrictions on Consumption. In any place licensed for "on-sale" all windows in front of any such place shall be in clear glass and the view of the whole interior shall be unobstructed by screens, curtains or partitions. There shall be no partitions, stalls, screens, curtains or other devices which shall obstruct the view of any part of said room from the general observation of persons in said room, provided however, that partitions, subdivisions or panels not higher than 42 inches from the floor shall not be constructed as to conflict with the foregoing.

Section 9. 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 commissioner of public safety under Minnesota Statutes, Section 340A.414 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.

Subdivision 3. Violations. It shall be unlawful for any:

- (1) Licensee or his employee to sell or serve intoxicating liquor to any person under the age of 21 years or to permit any person under the age of 21 years to consume intoxicating liquor on the licensed premises;
- (2) person other than the parent or the legal guardian to procure intoxicating liquor for any person under the age of 21 years;
- (3) person to induce a person under the age of 21 years to purchase or procure intoxicating liquor;
- (4) person under the age of 21 years to misrepresent his age for the purpose of obtaining intoxicating liquor;
- (5) person under the age of 21 years to consume, or possess with intent to consume, any intoxicating liquor in violation of M.S.A. 340A.503, Subdivision 1, Subsection (2) and Subdivision 3.

Subdivision 4. Other persons excepted. A person who was born on or before September 1, 1967, may continue to purchase and consume alcoholic beverages and shall be treated for purposes of Minnesota Statutes, Chapter 340A, as a person who is 21 years old.

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 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, Sections 14.57 to 14.69.

Section 11. Penalty.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700 or imprisonment in the county jail for not more than 90 days, or both, plus cost of prosecution in any case.

Section 12. Repeal.

Ordinance No. 120A and all ordinances inconsistent with this ordinance are hereby repealed.

Section 13. Effective Date.

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

Passed by the Council this 8th day of September, 1986.

Ronald Kelcey
Mayor

ATTEST:

Steven Florig
Clerk

(SEAL)

Title Summary published in the Lamberton News on
September 17, 1986.

AMENDMENT TO ORDINANCE NO. 129

The City of Lambertton ordains that Ordinance No. 129 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION" shall be amended by adding Subdivision 7 to Section 2, entitled "Beer garden permits" and by adding Subdivision 8 to Section 2 entitled "Community festival permits" to read as follows.

Subd. 7. Beer garden permits. Upon application a beer garden permit may be granted to the licensee of a on-sale intoxicating liquor license to allow sales and consumption outside of the interior of the fixed, permanent structure the licensee occupies, under the following restrictions:

- a) The outside serving area shall be fenced in with snow fence or similar fencing;
- b) Access for ingress and egress to the outside serving area shall only be permitted through a doorway directly to the interior of the building occupied by the licensee;
- c) The outside serving area shall be constructed in conformance with all applicable set back and zoning regulations;
- d) The licensee shall, as part of the application for a beer garden permit, provide proof to the City that the outside serving area is covered by liability insurance complying with the provisions of Minnesota Statutes Section 340A.409;
- e) Prior to the commencement of construction of the improvements constituting the outside serving area, sketch plans shall be submitted to the City Clerk for review and approval by the City Council.
- f) The permit may authorize the "on-sale" of intoxicating liquor for not more than four consecutive days. No more than three four-day, four three-day, or six two-day permits in any combination not to exceed twelve days per year, shall be issued to any one licensee and no more than one such permit shall be issued to any one licensee within a thirty day period.
- g) Permits under this subdivision shall be valid only for the days indicated on it.

Subd. 8. Community festival permits. Upon application a permit may be granted to the licensee of a on-sale intoxicating liquor license to dispense intoxicating liquor off premises at a community festival held within the City under the following restrictions:

- a) The permit shall specify the area in which the intoxicating liquor must be dispensed and consumed and, if the location is outside:

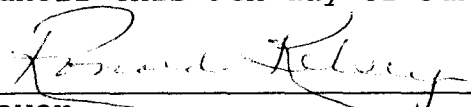
- i) The outside serving area shall be fenced in with snow fence or similar fencing;
- ii) Access for ingress and egress to the outside serving area shall only be permitted through a entrance under the control and supervision of the licensee;
- iii) The outside serving area shall be constructed in conformance with all applicable set back and zoning regulations;
- iv) Prior to the commencement of construction of the improvements constituting the outside serving area, sketch plans shall be submitted to the City Clerk for review and approval by the City Council.

b) The licensee shall, as part of the application for a community festival permit, provide proof to the City that the serving area is covered by liability insurance complying with the provisions of Minnesota Statutes Section 340A.409;

c) Permits under this subdivision shall be valid only for the days indicated on it.

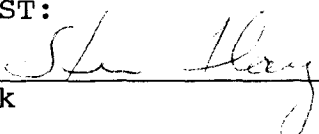
This amendment becomes effective upon its adoption and publication according to law.

Passed by the Lamberton City Council this 9th day of June, 1997.



Mayor

ATTEST:



Clerk

Published in the Lamberton News on June ____, 1997.

AMENDMENT TO ORDINANCE NO. 129

The City of Lambertton ordains that Ordinance No. 129 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION" shall be amended by amending Section 2, Subdivision 6 entitled "Temporary consumption and display permits" to read as follows:

Subdivision 6. Temporary consumption and display permits. A temporary intoxicating liquor consumption and display permit may be granted to a club or charitable, religious, or other non-profit organization in existence for at least three years or to a political committee registered under Minnesota Statutes Section 10A.14 for the "on-sale" of intoxicating liquor in connection with a social event within the city sponsored by the licensee. The license may authorize the "on-sale" of intoxicating liquor for not more than four consecutive days, and may authorize "on-sale" 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 municipality. Licenses under this subdivision are not valid unless first approved by the Commissioner of Public Safety. No more than three four-day, four three-day or six two-day licenses, in any combination not to exceed twelve days per year, shall be issued to any one organization or registered political committee, or for any one location, within a twelve month period and no more than one such license shall be issued to one organization or registered political committee, or for any one location, within a thirty day period. Licenses under this subdivision shall be valid only for the days indicated on it and may provide for sales of intoxicating liquor on Sundays.

This amendment becomes effective upon its adoption and publication according to law.

Passed by the Lambertton City Council this 12th day of May, 1997.



Mayor

ATTEST:



Clerk

Published in the Lambertton News on May __, 1997.

AMENDMENT TO ORDINANCE NO. 129

The City of Lambertton ordains that Ordinance No. 129 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION" shall be amended by amending Section 8, subdivision 4 entitled "Closing Times" to read as follows:

Subdivision 4. Closing Times. The premises for which an "on-sale" license is granted shall be closed to the public no later than 1:30 AM on any week day, and no individuals other than the licensee and/or his employees, shall be present on the premises when closed, except for the licensee and his invitees with prior approval of the City Council.

This amendment becomes effective upon its adoption and publication according to law.

Passed by the Lambertton City Council this 11th day of January, 1999.

Ronald Kelley
Mayor

ATTEST:

Shirley Gray
Clerk

Published in the Lambertton News on January 13, 1999.


AMENDMENT TO ORDINANCE NO. 129

The City of Lambertton ordains the Ordinance No. 129 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION" shall be amended by amending Section 8, subdivision 5, Entitled "Restrictions for off-sales" to read as follows:

No "off-sale" shall be made on Thanksgiving Day; Christmas Day, December 25th; nor after 8:00 P.M. on Christmas Eve, December 24th.

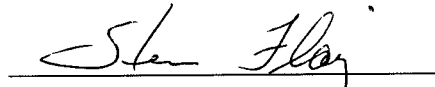
This amendment becomes effective upon its adoption and publication according to law.

Passed by the Lambertton City Council this 10th day of June, 2002 .



Mayor

Attest:


City Clerk/Administrator

AMENDMENT TO ORDINANCE NO. 129

THE CITY COUNCIL OF THE CITY OF LAMBERTON ORDAINS:

THAT ORDINANCE NUMBER 129, BE AMENDED BY REPEALING AND
OMMITTING THEREFROM SUBDIVISION 2 OF SECTION 3.

PASSED BY THE CITY COUNCIL THIS 13TH DAY OF
NOVEMBER, 1989.

Ronald Kelsey
MAYOR

ATTEST

Steven Flay
CITY CLERK