

ORDINANCE NO. 130

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF

The Council of the City of Lambertton ordains:

Section 1. Definition of Terms.

Subdivision 1. Beer. As used in this ordinance, "beer" or "non-intoxicating malt liquor" means any malt beverage with an alcoholic content not less than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Section 2. License Required.

Subdivision 1. Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, may directly or indirectly, on any pretense or by any devise, sell, barter, keep for sale, gift, or otherwise dispose of beer within the City without first having received a license hereinafter provided. Licenses shall be of three kinds: (1) Regular "on-sale"; (2) Temporary "on-sale"; (3) "Off-sale."

Subdivision 2. Regular on-sale. Regular "on-sale" licenses shall be granted only to drug stores, restaurants, hotels, clubs, and establishments used exclusively for the sale of non-intoxicating malt liquor with the incidental sale of tobacco and soft drinks and shall permit the sale of beer for consumption on the premises only. Any person licensed to sell intoxicating liquor at "on-sale" shall not be required to obtain an "on-sale" license under this section, and may sell beer at "on-sale" without further license.

Subdivision 3. Temporary "on-sale". Temporary "on-sale" licenses shall be granted only to charitable, religious, and non-profit organizations for the sale of beer for consumption on the premises only.

Subdivision 4. Off-sale. "Off-sale" licenses shall permit the sale of beer at retail, in the 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 under this section, and may sell beer at "off-sale" without further license.

Section 3. License Applications.

Subdivision 1. Form. Every application for a license to sell beer shall be made to the city clerk on a form supplied by the city and containing such information as the clerk or the city council may require. It shall be unlawful to make any false statement in an application.

Subdivision 2. Liability Insurance. Prior to the issuance of a beer license the applicant shall file with the City Clerk a liability insurance policy providing the following coverage:

- (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.409 relating to liability insurance policies.

This Subdivision does not apply to licensees who by affidavit establish that:

(a) They are "on-sale" non-intoxicating malt liquor licensees with sales of less than Ten Thousand Dollars (\$10,000.00) of non-intoxicating malt liquor for the preceding year;

(b) They are "off-sale" non-intoxicating malt liquor licensees with sales of less than Twenty Thousand Dollars (\$20,000.00) of non-intoxicating malt liquor for the preceding year;

(c) They are holders of "on-sale" wine licenses with sales of less than Ten Thousand Dollars (\$10,000.00) for wine for the preceding year; or

(d) They are holders of temporary wine licenses issued under law.

Section 4. License Fees.

Subdivision 1. Payment required. 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 any application for a license, the treasurer shall refund the amount paid.

Subdivision 2. Expiration; pro rata fees. Every license except a temporary license shall expire on the last day of December in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

Subdivision 3. Fees The annual fee for regular "on-sale", "off-sale" and temporary "on-sale" licenses shall be established by resolution of the City council from time to time.

Subdivision 4. Refunds. No part of the fee paid for any license issued under this ordinance shall be refunded except in

the following instances upon application to the council within 10 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 licensed business ceases not less than one month before expiration of the license because of:

- (1) destruction or damage of the licensed premises by fire or other catastrophe.
- (2) the licensee's illness.
- (3) the licensee's death.
- (4) a change in the legal status of the municipality making it unlawful for the licensed business to continue.

Section 5. Granting of License.

Subdivision 1. Investigation and hearing. 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 such investigation and hearing, the council shall grant or refuse the application in its discretion.

Subdivision 2. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the council.

Section 6. Persons Ineligible for License.

Subdivision 1. Persons ineligible. No license shall be granted to or held by any person who:

- (1) is not a citizen of the United States or a resident alien;
- (2) has been convicted of a wilful violation of a federal or state law or local ordinance governing the manufacture, sales, distribution, or possession for sale or distribution, of intoxicating or non-intoxicating malt liquors;
- (3) has had an intoxicating liquor or non-intoxicating liquor license revoked within five 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 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;
- (4) is not of good moral character and repute;
- (5) is not the proprietor of the establishment for which the license is issued;
- (6) is not a resident of the city; or
- (7) is under 19 years of age.

Subdivision 2. General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

Subdivision 3. Delinquent Taxes and Charges. No license shall be granted for operation on any premises for which taxes, assessments, or other financial claims of the city are delinquent and unpaid.

Section 7. Conditions of License.

Subdivision 1. General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the city or state law.

Subdivision 2. Sales to Persons Under 21 years of Age. No beer shall be sold or served to any person under 21 years of age.

Subdivision 3. Sales to intoxicated Persons. No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.

Subdivision 4. Interest of manufacturers or wholesalers. No manufacturer or wholesaler of beer 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 beer shall be parties to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subdivision 5. Sales of intoxicating liquor. No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption and display permit shall sell or permit the consumption or display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.

Subdivision 6. Licensee responsibility. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order. The act of any employee on the license premises authorized to sell or serve beer shall be deemed the act of the licensee as well and the licensee shall be liable to all penalties provided by this ordinance equally with the employee.

Subdivision 7. Employment of persons under 18 years of age. No person under 18 years of age shall sell or serve such beer for consumption on the premises described in an "on-sale" license, and no "on-sale" licensee shall cause, suffer, or permit any person under 18 years of age to sell or serve beer for consumption on the premises described in the license of such licensee.

Subdivision 8. Display of license. All licensed premises shall have the license therefor posted in a conspicuous place at all times.

Subdivision 9. 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 8. Closing Hours.

No sale of beer shall be made on any Sunday between the hours of 1:00 A.M. and 12:00 noon. No sale shall be made between the hours of 1:00 A.M. and 8:00 A.M. on any other day. The premises for which an "on-sale" license is granted shall be closed to the public no later than 1:30 A.M. on any day and no individuals, except for the licensee and/or his employees, shall be present on the premises when closed.

Section 9. Restrictions on Purchase, Possession and Consumption.

Subdivision 1. Violations. It shall be unlawful for any:

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

Subdivision 2. 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.

Subdivision 3. Consumption prohibited--where. No beer shall be consumed in any theater, recreation hall or center, dance hall, ball park, or other place of public gathering used for the purpose of entertainment, amusement or playing of games, except under the terms of a Temporary "On-sale" license.

Subdivision 4. Liquor consumption and display. No person shall consume or display any beer on the premises of a licensee

who is not also licensed to sell beer or who does not hold a consumption and display permit.

Section 10. Revocation.

The violation of any provision or conditions of this ordinance by a beer licensee or his agent is ground for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this ordinance may be revoked or suspended by the council after written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The council may suspend any license pending a hearing on revocation or suspension. No suspension shall exceed 60 days.

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 the cost of prosecution in any case.

Section 12. Repeal.

Ordinance No. 121 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 September 1986.

Ronald Kelsey
Mayor

ATTEST:

Steven Flay
Clerk

(SEAL)

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

AMENDMENT TO ORDINANCE NO. 130

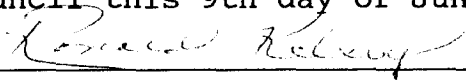
The City of Lambertton ordains that Ordinance No. 130 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF" shall be amended by adding Subdivision 7 to Section 2, entitled "Beer garden permits" to read as follows.

Subd. 7. Beer garden permits. Upon application a beer garden permit may be granted to the licensee of a on-sale non-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 non-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.


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

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



Mayor

ATTEST:



Clerk

Published in the Lambertton News on June ____, 1997.

AMENDMENT TO ORDINANCE NO. 130

The City of Lambertton ordains that Ordinance No. 130 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR VIOLATION THEREOF" shall be amended by amending Section 9 entitled "Closing Hours" to read as follows:

Section 9. Closing Hours.

No sale of beer shall be made on any Sunday between the hours of 1:00 A.M. and 12:00 noon, nor between the hours of 1:00 A.M. and 8:00 P.M. on the day of any statewide election. No sale shall be made between the hours of 1:00 A.M. and 8:00 A.M. on any other day. The premises for which an "on-sale" license is granted shall be closed to the public no later than 1:30 A.M. on any day and no individuals, ~~except for~~ 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 ____ day of January, 1999.

Ronald Kelsey
Mayor

ATTEST:

Al Hay
Clerk

Published in the Lambertton News on January, 1999.

AMENDMENT TO ORDINANCE NO. 130

The City of Lambertton ordains that Ordinance No. 130 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR VIOLATION THEREOF" shall be amended by amending Section 9 entitled "Closing Hours" to read as follows:

Section 9. Closing Hours.

No sale of beer shall be made on any Sunday between the hours of 1:00 A.M. and 12:00 noon, nor between the hours of 1:00 A.M. and 8:00 P.M. on the day of any statewide election. No sale shall be made between the hours of 1:00 A.M. and 8:00 A.M. on any other day. The premises for which an "on-sale" license is granted shall be closed to the public no later than 1:30 A.M. on any 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 Kelsey
Mayor

ATTEST:

Sh. Hay
Clerk

Published in the Lambertton News on January, 1999.

AMENDMENT TO ORDINANCE NO. 130

The City of Lambertton ordains that Ordinance No. 130 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF" shall be amended by adding Subdivision 7 to Section 2, entitled "Beer garden 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 non-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;

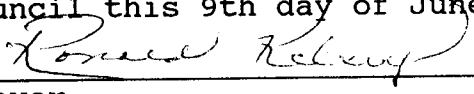
e) Prior to the commencement of construction of the improvements constituting the outside serving area, sketch plans shall be submitted to the City Clerk for review and approval by the City Council.

f) The permit may authorize the "on-sale" of non-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.

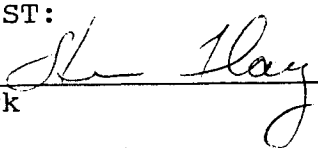
This amendment becomes effective upon its adoption and publication according to law.

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



Mayor

ATTEST:



Clerk

Published in the Lambertton News on June _____, 1997.

AMENDMENT TO ORDINANCE NO. 130

The City of Lambertton ordains that Ordinance No. 130 entitled "AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF NON-INTOXICATING MALT LIQUORS AND PROVIDING A PENALTY FOR VIOLATION THEREOF" shall be amended by amending Section 9 entitled "Closing Hours" to read as follows:

Section 9. Closing Hours.

No sale of beer shall be made on any Sunday between the hours of 1:00 A.M. and 12:00 noon, nor between the hours of 1:00 A.M. and 8:00 P.M. on the day of any statewide election. No sale shall be made between the hours of 1:00 A.M. and 8:00 A.M. on any other day. The premises for which an "on-sale" license is granted shall be closed to the public no later than 1:30 A.M. on any 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 Kelsey
Mayor

ATTEST:

Sh. Hay
Clerk

Published in the Lambertton News on January, 1999.