

ORDINANCE NO. 2009-04

**LIQUOR LICENSE REGULATIONS
FOR
CASS COUNTY, MINNESOTA**



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OFFICE OF COUNTY RECORDER
CASS COUNTY MINNESOTA

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KATHRYN N. NORBY
COUNTY RECORDER

BY

Kathryn N. Norby
DEPUTY
SK

EFFECTIVE DATE: October 1, 2009

Amendments of August 4, 2009 incorporated

ORDINANCE NO. 2009-04

CASS COUNTY LIQUOR LICENSE REGULATIONS

AN ORDINANCE RELATING TO LICENSING AND REGULATING THE SALE OF INTOXICATING LIQUOR IN ANY TOWNSHIP AND THE UNORGANIZED AREA OF CASS COUNTY, MINNESOTA

The Board of County Commissioners for the County of Cass, Minnesota, does hereby ordain as follows:

PROVISIONS OF STATE LAW ADOPTED The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, distribution, and consumption of intoxicating liquor are adopted and made a part of this Ordinance as if set out in full.

LICENSES REQUIRED No person, except a wholesaler, manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale in any township or unorganized area in the county any intoxicating liquor or malt liquor without a license to do so as provided in this Ordinance.

On-sale intoxicating liquor licenses may be granted in such number and to such establishments as qualify under state liquor laws as restaurants. A restaurant is an establishment other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, but shall permit consumption of liquor on the licensed premises only.

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

An on-sale intoxicating liquor license if issued authorizes sales on Sundays in conjunction with the serving of food by any restaurant or club located in a township in which Sunday liquor has been approved by the voters of the township and which has facilities for serving at least thirty (30) guests at one time.

An on-sale wine license may be issued as authorized under Minnesota Statutes 340A.404, Subd. 5 (a) only to restaurants meeting the qualifications of Minnesota Statutes 340A.101 Subd. 25, and shall permit only the sale of wine as defined in Minnesota Statutes 340A.101, Subd. 29, for consumption on the licensed premises only, in conjunction with the sale of food.

Pursuant to Minnesota Statutes 340A.404, Subd. 5 (b) the Cass County Board may authorize the sale of intoxicating malt liquor at on-sale to a holder of an on-sale wine license issued under Minnesota Statutes 340A.404, Subd. 5 (a) who is also licensed to sell 3.2 percent malt liquors at on-sale pursuant to Minnesota Statutes 340A.411, and whose gross receipts are at least 60 percent attributable to the sale of food, without an additional license.

An on-sale wine license may be issued to a licensed bed and breakfast facility as authorized under Minnesota Statutes 340A.404, Subd. 5 (c) and shall permit the facility to furnish wine only to registered guests of the facility.

Non-intoxicating malt liquor on and off sale licenses may be issued as authorized under Minnesota Statutes 340A.403. A temporary on-sale license may be issued to a charitable, religious or non-profit organization for a period not to exceed three (3) days.

APPLICATION FOR A LICENSE An application for a license to sell intoxicating or malt liquor shall be obtained from the County Auditor-Treasurer, and the completed application shall be verified and filed with the County Auditor-Treasurer. No person shall make a false statement in an application. The applicant must obtain the written approval of their Town Board, the County Sheriff, and the County Attorney prior to submitting the application to the County Board. Any request for a new license must be presented at least 60 days prior to the requested effective date and any renewal must be presented with all requirements met, 30 days prior to the effective date. Late renewals for intoxicating on and off-sale liquor shall pay a \$100.00 late fee which must accompany the completed application. If a special meeting of the County Board is required for action on a late application, the applicant shall be responsible for all costs related to that meeting.

Mandatory Training – New License Applicants All new license applicants and their employees that will be selling or serving any alcoholic beverage on the licensed premises shall complete an approved server education training as a condition of license approval. The new license applicant shall certify completion of training prior to license issuance.

In deciding whether to grant a particular license, the County Board shall consider the following factors:

- Compatibility of the establishment with surrounding land uses, including but not limited to parking areas and adequate screening.
- Statutory requirement of financial investigation for initial applications and, responsibility, moral character and reputation of the applicant.

The County Board may deny a license in an area where restricted against commercial use through zoning ordinances and other proceedings or legal process regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant.

No license shall be granted under this ordinance to any applicant owing or to any premises on which federal, state, or local taxes, including property taxes, assessments, or other financial claims are delinquent and unpaid.

FEES The fees for liquor licenses shall be established by resolution of the County Board pursuant to Minnesota Statutes 340A.408.

LICENSE NOT TRANSFERABLE No license granted for intoxicating liquor, non-intoxicating malt liquor or wine is transferable.

Upon submission of a completed application for refund, a monthly pro rata share of the annual license fee for an on-sale intoxicating liquor license, less \$500, may be refunded to the licensee or to the licensee's estate, if: (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; (3) the business ceases to be lawful for a reason other than a license revocation; or (4) the licensee ceases to carry on the licensed business under the license. Once a refund is approved and issued under this section, the license will not be reinstated within the current license year unless the licensee or successor successfully completes the full license application process and remits the full amount of the annual license fee(s).

INSURANCE Prior to the approval of an intoxicating liquor license, or a wine license, the applicant shall file with the County Auditor-Treasurer a certificate for a liquor liability insurance policy in the amounts outlined in Minnesota Statutes 340A.409. Lapse of required dram shop insurance shall result in an immediate suspension of any license issued, pursuant to this ordinance without further action of the county board.

HOURS Sales are prohibited between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday. Sunday on-sale hours of sale shall be between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays in conjunction with the sale of food.

It will be unlawful for any person to enter or remain on the licensed premises after 1:30 a.m. except the licensee, or any employee of the licensee who is actually working and preparing to open or close the licensed premises and any law enforcement person.

GENERAL Responsibilities of Licensee. Every licensee is responsible for the conduct in the licensed establishment. Any sale of alcoholic beverages by any employee authorized to sell alcoholic beverages in the licensed establishment is an act of the licensee.

- All licensees must comply with the Minnesota Clean Indoor Air Act.
- No intoxicating liquors or non-intoxicating malt liquor shall be consumed by any person in the parking area adjacent to any licensed premises at any time.
- No licensee shall permit any lewd conduct of public nudity or strip tease act or exotic dancing or any other similar conduct on the premises.
- For any license the sale of liquor shall be incidental and subordinate to restaurant sales.
- A licensee shall allow any law enforcement official to enter the premises for the purpose of investigating possible violations of this ordinance, and Minnesota Statutes.

OFFENSES INVOLVING UNDERAGE PERSONS

Consumption. It is unlawful for a licensee to permit any underage person to consume any alcoholic beverage on the licensed premises.

It is unlawful for a person under 21 to consume, purchase, or possess any alcoholic beverage.

Sale. It is unlawful for any licensee to sell, barter, furnish, or give any alcoholic beverage to an underage person.

Entering Licensed Establishment. It is unlawful for an underage person to enter a licensed establishment for the purpose of purchasing or having served or delivered any alcoholic beverage, except: person 18, 19 or 20 years of age may enter a licensed establishment to:

- (1) Perform work for the licensed establishment, including the serving of alcoholic beverages, unless otherwise prohibited by Minn. Stat. § 340A.412, subd. 10;
- (2) Consume meals;
- (3) Attend a social function held in a portion of the establishment where no alcoholic beverages are sold; or
- (4) Assist with compliance checks conducted by law enforcement or other authorized community organizations.

Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license or state identification card, a valid military identification card issued by the United States Department of Defense, or in the case of a foreign national by a valid passport.

ENFORCEMENT AND PENALTIES

Enforcement. Violations of the prescriptions established in this ordinance may be enforced through criminal and/or civil sanctions. Violations of the provisions of this ordinance and the statutes incorporated hereunder shall be a misdemeanor, unless such violation is made a gross misdemeanor or felony by statute. The administrative penalty provisions of this ordinance shall be enforced pursuant to the procedures identified herein.

Criminal Prosecution. Nothing in this ordinance limits Cass County in seeking criminal prosecution under Minnesota Statutes for violations of other statutes, rules or ordinances.

Administrative Penalties. In addition to criminal prosecution resulting in conviction, Cass County will issue the following administrative penalties for violations of this ordinance.

First violation. Any licensee found to have violated this ordinance shall be required to complete approved server education training. The training shall be completed by the licensee and all employees that will be serving any alcoholic beverage on the licensed premises within 30 days of conviction. The licensee shall certify training attendance to Cass County upon completion.

Second violation. Any licensee found to have violated this ordinance two (2) times within a twenty-four (24) month period will be subject to a five hundred dollars (\$500.00) administrative penalty.

Third violation. Any licensee found to have violated this ordinance three (3) times within a twenty-four (24) month period will be subject to a seven hundred fifty dollar (\$750.00) administrative penalty.

Fourth violation. Any licensee found to have violated this ordinance four (4) times within a twenty-four (24) month period will be subject to a one thousand (\$1,000.00) administrative penalty. In addition, a three (3) day suspension of the liquor license shall be imposed.

Fifth violation. Any licensee found to have violated this ordinance five (5) times within a twenty-four (24) month period shall have their liquor license revoked.

The twenty-four (24) month period shall begin upon the first violation on the date of conviction. Failure to pay an administrative penalty imposed for violation within 30 days of notice will result in licensee suspension until such time that the penalty is paid. Upon license revocation for a fifth violation the licensee may make application for a new licensee for the next license year. The Cass County Board of Commissioners reserves the right to deny license issuance based on this ordinance, state statutes and public interests.

APPEAL OF ADMINISTRATIVE PENALTIES A licensee may appeal the imposition of an administrative penalty, license suspension or license revocation within seven (7) days of receiving notice of the action. The appeal shall be submitted in writing to the Cass County Administrator, P.O. Box 3000, 303 Minnesota Avenue, Walker, Minnesota, 56484. The appeal shall be heard by a committee of the Cass County Board of Commissioners within fifteen (15) days of receipt by the Cass County Administrator upon written notice to the licensee of the date, time and place of the hearing. No license suspension or revocation shall take effect until the time for appeal has expired, or if an appeal is brought, until the committee of the Cass County Board of Commissioners has rendered a decision.

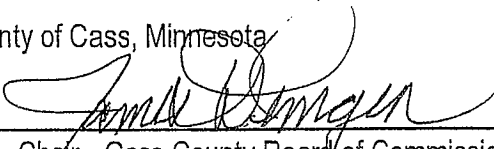
SEVERABILITY Should any section or provision of this ordinance be declared invalid or unconstitutional, such finding shall not affect the validity of the ordinance as a whole, or any part thereof, other than that part found to be invalid or unconstitutional.

Effective Date: This Ordinance shall be in effect on **October 1, 2009**.

Passed by the Cass County Board of Commissioners this **4th** day of **August, 2009**.

County of Cass, Minnesota

By: _____


Chair - Cass County Board of Commissioners

Attest: _____


Robert H. Yochum, Cass County Administrator