

ORDINANCE NO. 31

AN ORDINANCE REGULATING THE SALE OF INTOXICATING LIQUOR AND NON-INTOXICATING MALT LIQUOR, REQUIRING A LICENSE THEREFOR, AND ESTABLISHING PENALTIES FOR VIOLATIONS

The City Council of the City of Plato ordains:

Section 1. Definitions

- a. "Intoxicating liquor" or "liquor" means ethyl alcohol, distilled fermented, spiritous, vinous and malt beverages containing in excess of 3.2% alcohol by weight.
- b. "Non-intoxicating malt liquor" or "3.2 beer" means any malt beverage containing 3.2% alcohol or less by weight.
- c. "Sale" and "Sell" mean and include all barter and all manners or means of furnishing intoxicating liquor or liquors or non-intoxicating malt liquor as above described in violation or evasion of law and also include the usual meaning of terms.
- d. "On sale" means the sale of intoxicating liquor by the glass, or by the drink for consumption on the premises only.
- e. "Off Sale" means the sale of intoxicating liquor in the original package, the seal of which is unbroken and specifically not for consumption upon the premises.
- f. "On Sale Establishment" includes any establishment which On Sale liquor is sold by the glass or by the drink for consumption upon the premises, which may include any restaurant which is designed to serve meals.
- g. "Off Sale Establishment" includes any establishment in which packaged liquor is designed to be sold for consumption off of the premises.
- h. "3.2 Establishment" is any establishment where the sale of non-intoxicating malt liquor, whether by the glass or by the drink for consumption upon the premises or to be sold in the original package for sale off of the premises.
- i. "Club" means and includes any corporation duly organized under the laws of the State for civic, fraternal, social or business purposes or for intellectual improvement or for the promotion of sports which has been in existence for more than 15 years, and any congressionally chartered veterans' organization which has been in existence for more than 10 years; which shall have more than fifty members; and which shall, for more than a year have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members; and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members of the club.

Section 2. License Required.

- a. No person, except wholesalers or manufacturers to the extent authorized under State License, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor or non intoxicating malt liquor without first having received a license to do so under this Chapter. Licenses shall be of five kinds: "On Sale", "On Sale Club", "Off Sale", "Non-Intoxicating Malt Liquor" and a "Special license for Sunday Liquor Sales".
- b. "On Sale Club" licenses shall be issued only to clubs.
- c. "Special License for Sunday Liquor Sales" shall be issued only to establishments to which "On Sale" licenses have been issued or hereafter may be issued for the sale of intoxicating liquors which establishments are authorized to make Sunday liquor sales pursuant to the provision of Minnesota Statutes Chapter 340.

Section 3. Application for License

- a. In addition to the foregoing information which may be required by the State Liquor Control Commissioner's form, the application for a license shall be

on a form provided by and contain such information as required by the City Council.

- b. If the application is by a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; if by an unincorporated association, by the manager or managing officer thereof. If the applicant is a partnership, the application, license and bond (or insurance policy) shall be made and issued in the name of all partners.

Section 4. Renewal Application - Applications for the renewal of an existing license shall be made at least 90 days prior to the date of the expiration of the license, and shall contain such information as required by the City Council. This time requirement may be waived by the Council for good and sufficient cause.

Section 5. License Fees

- a. The following shall be the annual license fees:

<u>On Sale</u>	<u>Off Sale</u>	<u>On Sale Club</u>	<u>Non-Intox. Malt Liquor</u>	<u>Spec. Lic. for Sunday Liquors</u>
\$1,200.00	\$100.00	\$100.00	\$15.00	\$200.00

- b. The annual license fee shall be paid in full before the application for a license is accepted, except that, with respect to "On Sale" license applications, one-half of the fee shall be paid before the application is accepted and the remaining balance shall be paid before the license is issued. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, or upon withdrawal of application before approval of the issuance by the City Council, the license fee shall be refunded to the applicant except where rejection is for willful misstatement on the license application.
- c. License fee for any of the foregoing licenses after the commencement of the license year shall not be prorated, except the council shall have the power to prorate licenses if they shall find a special hardship condition exists.
- d. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety days after the approval of the license by the Council or upon the date the building is ready for occupancy, whichever is sooner.
- e. At the time of each original application for an "On Sale" license, the applicant shall pay in full an investigating fee. The investigating fee shall be \$100.00 for a single natural person, \$200.00 for a partnership, \$300.00 for a corporation or other association. The unexpended portion of the investigation fees may be refunded.
- f. At any time that an additional investigation is required because of a change in the ownership the licensee shall pay an additional investigation fee in the amount of \$100.00 for a single natural person, \$200.00 for a partnership, \$300.00 for a corporation or other association.

Section 6. Granting of Licenses

- a. All other applications for an "On Sale" license shall be referred to the City Clerk for investigation who shall make a written recommendation and report to the Council. The investigation shall include a list of all violations of Federal or State Law or Municipal Ordinance. The Council may order and conduct such additional investigation as it shall deem necessary.
- b. The City Clerk shall within 20 days thereafter have published in the official newspaper not less than 10 days in advance a notice of a hearing on the "On Sale" license application, to be held by the Council setting forth the name of the applicant, the premises where the business is to be conducted, the nature of the business and such other information as the Council may direct.
- c. (i) Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application.
- (ii) No license may be transferred to another person or to any other place without complying with the requirements of an original application including the approval of the Council and the Liquor Control Commissioner, as required.

- d. Where a license is granted for premises where the building is under construction or otherwise not ready for occupancy, the City Clerk shall not issue the license until notified that a certificate of occupancy has been issued and the building is ready for occupancy.

Section 7. Persons Ineligible for Licensing No license shall be granted to or held by any person:

- a. Who is ineligible under Minn. Stat., Chapter 340.
- b. Who has been convicted within 15 years prior to the application of such license, of any willful violation of any law of the United States, the State of Minnesota, or any other State or Territory, or of any local ordinance regarding the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor, or whose liquor license has been revoked for any willful violation of any law or ordinance.
- c. Who, if a corporation, does not have a manager who is eligible pursuant to the provisions of the section.
- d. Who is the spouse of a person ineligible for a license or who, in the judgment of the Council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.

Section 8. Places Ineligible for License

- a. No license shall be granted, or reviewed for operation on any premises, on which taxes, assessments or other financial claims of the City or State are due, delinquent or unpaid. In the event an action has been commenced pursuant to the provisions of Minn. State., Chapter 278 questioning the amount or validity of the taxes, the Council may, on application by the licensee, waive strict compliance with this provision, no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.
- b. No license shall be issued for the premises owned by a person to whom a license may not be granted.
- c. No license shall be granted for any place which has a common entrance or exit between two establishments except that a public concourse or public lobby shall not be construed as a common entrance or exit.

Section 9. Conditions of License Every license shall be granted subject to the following subdivisions and all other requirements of this Chapter and of any other applicable law of the City or State:

- a. Any police officer, building inspector, or any properly designated officer or employee of the City shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant.
- b. No licensee shall sell, offer for sale or keep for sale, intoxicating liquors in any original package which has been refilled or partly refilled. No licensee shall directly or through any other person delete or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any intoxicating liquor in the original package differing in composition or alcoholic content in the liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.
- c. No "On Sale" liquor establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- d. No licensee shall apply for or possess a Federal Wholesale Liquor Dealers special tax stamp or a Federal gambling stamp.
- e. No licensee shall keep ethyl alcohol or neutral spirits on any licensed premises or permit their use on the premises as a beverage or mixed with a beverage.
- f. The business records of the licensee, including Federal and State tax returns, shall be available for inspection by the City Clerk or the Council at all reasonable times.

- g. Changes in the corporate or association officers, corporate charter, articles of incorporation, by-laws, or partnership agreement, as the case may be, shall be submitted to the City Clerk within 30 days after such changes are made.
- h. At the time a licensee submits his application for renewal of a license, he shall state the nature or amount of any contribution he has made for campaign or political purposes, the person to whom the contribution was made and the person or organization for whom intended.
- i. No "Special License for Sundry Liquor Sales" licensee shall serve liquor on Sunday except in conjunction with the serving of food.
- j. No Club for which a license herein is issued shall serve liquor to, or allow upon any premises any person who is not a bona fide member of such club or a bona fide guest of a member of such club.

Section 10. Bond and Insurance

a. Bond or Deposit.

At the time of filing an application for either "On Sale" or "Off Sale", an "On Sale Club" liquor license, but excluding a "Special License for Sundry Liquor Sales" and "Non-intoxicating malt liquor licenses", the applicant shall file a bond with corporate surety, or in lieu thereof, cash or United States Government Bonds which shall be deposited with the City Clerk. Such bond, cash or government bonds shall be in the amount of \$3,000.00 for an "On Sale" license.

The filing of the above described bond or cash for an "On Sale" liquor license shall be deemed sufficient for the purpose of issuance of a "Special License for Sundry Liquor Sales", provided such bond, or the terms of such cash deposit are amended to include the periods during which such licensee is operating under a "Special License for Sundry Liquor Sales".

b. Approval of Bond or Insurance.

The surety bonds or insurance policies required by Subdivision A of this section shall be subject to the approval of the Council.

c. Procedures where cash or government bonds are used.

If the applicant uses cash for security, it shall be deposited with the City Clerk. If United States Government Bonds are permitted and are used as such security, as assignment or agreement shall accompany them and they shall be filed with the City Clerk. The licensee shall be permitted to clip and take all interest bearing coupons thereto attached as they become due.

d. Surety or Insurance Companies.

The surety on such bond or the insurer on such liability insurance policy, shall be a surety company or insurance company, as the case may be, duly licensed to do business in the State, and the bond and liability insurance policy shall be approved as to form and execution by the City Attorney. All surety bonds or liability insurance policies, when approved by the property City of State officers, shall be deposited with the City Clerk.

e. Amount and Terms of Insurance.

Liability insurance is required for all licenses, except non-intoxicating malt liquor licenses issued to an establishment whose sale of non-intoxicating malt liquor is less than \$10,000.00 per year gross. Such liability insurance policy shall further provide that no cancellation for any cause can be made either by the insured or the insurance company without first giving 10 days notice to the City in writing of intention to cancel the same, addressed to the City Clerk. Further, it shall provide that no payment of any claim by the insurance company shall, in any manner, decrease the coverage provided for in respect to any other claim or claims brought against the insured or company thereafter. Such policy shall be conditioned that the insurer shall pay, to the extent of the principal amount of the policy, any damages for death or injury caused by, or resulting from the violation of any law relating to the business for which such license has been granted. The licensee and the City shall be named as joint insureds on the liability insurance policy.

Section 11. License Revocation

- a. Any license herein may be revoked by the Council upon proof of any violation of this ordinance by the license holder.
- b. That prior to any revocation of any license, the license holder subject to revocation by reason of an alleged violation of this Ordinance shall receive 15 days notice and shall have the opportunity to be heard at a public hearing before the Council concerning said alleged violation.
- c. At such hearing concerning any alleged violation the City Attorney shall present such witnesses and evidence to the Council of violations by the licensee holder, following which the licensee holder shall have the full right of cross examination of all such witnesses, shall have the right to counsel at all times during said hearing, may present all relevant evidence including testimony of witnesses in his own behalf, and shall be furnished in writing the decision of the Council concerning its action with regard to a revocation hearing.

Section 12. Sale and closing shall be according to the sale and closing hours as established by Minnesota Statutes Chapter 340 as may be amended from time to time.

Section 13. Prohibited Sale No sale shall be made to any person under the age as established by Minnesota Statutes Chapter 340 as may be amended from time to time. No person for whom a sale is prohibited by reason of age should remain or loiter upon any premises holding any license for any purposes, except that such a person may be upon a premises holding a non intoxicating malt liquor license only in the presence of that person's parent or legal guardian. Such a person may be lawfully upon any premises which holds a license for the sale of non-intoxicating malt liquor, which is sold in the original package and not intended for consumption upon the premises, which premises is not primarily for the purpose of selling liquor or non-intoxicating malt liquor. No person under the age required by State Statute shall be allowed to purchase or consume alcoholic beverages, shall be allowed to remain upon any licensed premises, except if such a person may be in the presence of a parent or guardian for the expressed purpose of consuming a meal when the premises is operated for the specific enterprise as a restaurant.

Section 14. The following activities shall be expressly prohibited upon any licensed premises: Gambling, sale of liquor or non-intoxicating malt liquor to any person under the age as prescribed by statute, sale of liquor and non-intoxicating malt liquor to an intoxicated person, any illegal or unlawful conduct whatsoever.

Section 14. Penalties

- a. Any violation of this Ordinance in addition to cause for revocation of any license hereunder, shall further constitute a misdemeanor.

Adopted by the City of Plato, Minnesota, January 7, 1985

Approved: Tim Pinske, Mayor

Attest: Kathleen Stuedemann, Clerk

Published in the Glencoe Enterprise January 17, 1985