

ORDINANCE NO. 25

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 Nevis ordains:

Sec. 1. provisions of State Law Adopted. The provisions of Minnesota Statutes Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility 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.

Sec. 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 deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of four kinds: "on-sale", temporary "on-sale", "on-sale" wine, and club licenses.

Subd 2. On-sale licenses. "On-sale" licenses shall be issued only to hotels, clubs and restaurants and shall permit "on-sale" of liquor only. Restaurants must have a minimum seating capacity of 50 persons and may not engage in the sale of liquor unless the kitchen facilities are open.

Subd 3. 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 license premises only, in conjunction with the sale of food.

Subd. 4. Temporary on-sale licenses. Subject to the approval of the commissioner of public safety, temporary on-sale licenses shall be issued only to clubs or charitable, religious, or other non-profit organizations in existence for at least three years. A temporary license authorizes the on-sale of intoxicating liquor in connection with a social event within the city sponsored by the licensee and subject to restrictions imposed by the state liquor act.

Subd 5. Off-sale licenses. "Off-sale" licenses shall not be issued.

Subd 6. Special club licenses. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veterans' organizations which have been in existence at least three years.

Subd 7. Special License for Sunday Sales. A special license

authorizing sales on Sunday in conjunction with the serving of food may be issued to any hotel, restaurant, or club which has facilities for serving at least 50 guests at one time, and which has an on-sale License.

Sec. 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. Every application shall also include a copy of each summons received by the applicant under Minnesota Statutes Section 340A.802 during the preceding year. (M.S. 340.409, Subd. 8.) In addition to containing such information, the application shall be in the form prescribed by the bureau of criminal apprehension and shall be verified and filed with the city clerk. No person shall make a false statement in an application.

Subd 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, Subd. 1. Such surety bond or other security shall be in the sum of \$5,000.00 for an applicant for an "on-sale" license or an "on-sale" wine license.

Subd 3. Financial responsibility. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liability under the statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety. Applicants for liquor licenses to whom the requirement of proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409.

Subd. 4. Approval of security. The security offered under Subdivision 2 shall be approved by the city council and in the case of applicants for "on-sale" wine licenses by the state commissioner of public safety. Liability insurance policies required by this ordinance but not by state law and surety bonds required under Subdivision 2 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 for revocation of the license.

Sec. 4 License Fees. Subdivision 1. Fees. The annual fee for a liquor license shall be \$1,500.00 for an "on-sale" license, \$100.00 for a temporary "on-sale" license, \$200.00 for an "on-sale"

wine license or for a special license for Sunday sales, and \$300.00 for a special club license.

Subd. 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.

Subd. 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 December.

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

Sec. 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 applicant shall pay with his application an investigation fee of \$500.00 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 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. If an investigation outside the state is required, the applicant shall be charged the cost, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted. Any unused portion of the investigation fee shall be refunded to the applicant.

Subd. 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 "on-sale" or wine license shall become effective until it,

together with the security furnished by the applicant, approved has been by the commissioner of public safety.

Subd. 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 is deemed a transfer of the license, and a transfer of stock without prior council approval is a ground for revocation of the license.

Sec. 6. Persons ineligible for License. No license shall be granted to any person made ineligible for such a license by state law. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to anyone person.

Sec. 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.

Subd. 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.

Sec. 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.

Subd. 2. Insurance. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

Subd. 3. Licensee's responsibility. Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcoholic beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee.

Subd. 4. 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 business hours without a warrant.

Subd. 5. Display during prohibited hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Sec. 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.

Subd. 2. Consumption in public places. No person shall consume liquor on a public highway, public park, or other public place.

Sec. 10. Suspension and Revocation. The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility 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 14.70 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if such a request is made in writing to the clerk a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

Sec. 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.

Sec. 12. Effective date. This ordinance becomes effective upon its passage and publication according to law.

Passed by the council this 12th day of January 1993.

James H. Hukki, Mayor

Attest:

Maureen K. Cirks

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