

**City of Nerstrand
Rice County, Minnesota**

**ORDINANCE OF CITY COUNCIL
ORDINANCE NO. 1125**

FINDINGS

The Council of the City of Nerstrand (the “Council”) hereby finds:

1. That regulation of the sale of intoxicating liquors and 3.2% malt liquor as set forth in this Ordinance is in the best interests of the City of Nerstrand (the “City”) and its residents, and promotes the public health, welfare, and safety.
2. That Minn. Stat. § 340A.509 authorizes the Council to adopt restrictions which are more restrictive than Minnesota State law.

ORDINANCE

The City ordains as follows:

1125.00 Adoption of State Law. The provisions of Minn. Stat. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to Minn. Stat. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

1125.01 Definitions.

Subd. 1. For purposes of this section, the terms defined in this subsection have the meanings given them:

Subd. 2. “Commissioner” or “Public Safety Commissioner” shall mean the commissioner of public safety of the State of Minnesota.

Subd. 3. “Consumption and display permit” shall mean a permit that authorizes a business establishment or club which does not hold an on-sale intoxicating liquor license to allow the consumption and display of alcoholic beverages or the service of any liquid for the purpose of mixing with intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor. Such permit is issued by the commissioner and consent of the city council is required.

Subd. 4. “Intoxicating liquor and liquor” shall mean ethyl alcohol, distilled, fermented,

spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

Subd. 5. “3.2 percent malt liquor” shall mean any beer, ale, or other beverage made from malt by fermentation containing not less than one-half (½) of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 6. “Off-sale” shall mean the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

Subd. 7. “On-sale” shall mean the sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 8. “Wine” shall mean the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half (½) of one percent nor more than twenty-four (24) percent alcohol by volume for non-industrial use. Wine does not include distilled spirits.

1125.02 Public Consumption. No person shall consume intoxicating liquor, wine, 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than where a temporary on-sale intoxicating liquor permit and associated special event permit have been issued, or where the consumption and display of liquor is lawfully permitted.

1125.03 License or permit required. No person shall, directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession or otherwise dispose of intoxicating liquor, wine or 3.2 percent malt liquor without having obtained the required license or permit required by this Chapter and/or Minnesota Statutes Chapter 340A. The licenses permitted under this Chapter are as follows: Temporary on-sale Intoxicating Liquor (Subd. 1), Consumption and Display Permit (Subd. 2); or Caterer’s Permit (Subd. 3).

1125.04 Types of Licenses or Permits. Subd. 1. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years; a political committee registered under state law; or a state university.

- a. No license shall be for longer than four consecutive days, and the City shall issue no more than twelve (12) days’ worth of temporary licenses to any one organization in one calendar year.
- b. The City shall allow the applicant to apply for up to 12 days’ worth of temporary licensure at once, provided that there shall not be more than four consecutive days. (Pursuant to MN Statute 340A.410 subd.10.)
- c. The temporary on-sale intoxicating liquor license allows that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale

intoxicating liquor license issued by any municipality. (Pursuant to MN Statute 340A.404 subd.10.)

- d. The temporary on-sale liquor license holder may also be subject to Section 915 Special Event permit requirements in addition to the liquor license.

Subd. 2 Consumption and display permits.

- a. Annual permit: A club or business establishment that is not a holder of an on-sale intoxicating liquor license may permit the consumption or display of intoxicating liquors upon such premises if authorized by Minnesota Statutes, Section 340A.414 and a consumption and display permit is issued by the commissioner. Consumption and display permits are issued by the commissioner but in order to be valid, they must be approved by the city council. The permit does not authorize a sale of intoxicating liquor on the premises.
- b. One-day permit. A one-day consumption and display permit may be issued by the city to a nonprofit organization for the consumption and display of intoxicating liquor in conjunction with a social activity in the city sponsored by the organization. The permit is valid only after first being approved by the commissioner. The permit is valid only for the day indicated on the permit. The fee for the permit shall be set forth in the city's fee schedule, not to exceed \$25. The city may not issue more than ten (10) permits in any one year. (Pursuant to MN Statute 340A.414 subd. 9.)
- c. Hours of consumption and display. The hours of consumption and display of intoxicating liquor are those specified in Minnesota Statutes, Chapter 340A. A holder of a consumption and display permit who wishes to allow the consumption and display of intoxicating liquor between the hours of 1:00 a.m. and 2:00 a.m. must obtain authorization from the commissioner. A person who holds a consumption and display permit and who also holds a license to sell alcoholic beverages at on-sale at the same location is not required to obtain authorization from the commissioner.

Subd. 3 Caterer's permits. The commissioner may issue a caterer's permit to a restaurant that holds an on-sale intoxicating liquor license issued by a Minnesota city. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale license is issued.

- a. A caterer's permit is auxiliary to the primary on-sale license held by the licensee, hereinafter referred to as the "permittee" when operating within the city.
- b. The restrictions and regulations which apply to the sale of intoxicating liquor on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that is prohibited on the licensed premises is also prohibited when the permittee is operating other than on the licensed premises under a caterer's permit.
- c. Any act, which if done on the licensed premises would be grounds for cancellation or suspension of the on-sale license, is grounds for cancellation of both the on-sale license and the caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.
- d. If the primary license ceases to be valid for any reason, the caterer's permit ceases to

be valid and the permittee shall not be authorized to operate within the city.

- e. A caterer's permit issued by the commissioner is subject to all laws and city regulations governing the sale of intoxicating liquor, including, but not limited to, this chapter, except those laws and city regulations which by their nature are not applicable. (Pursuant to MN Statutes, Section 340A.404, subd.12.)

Subd 4. Off-Sale Intoxicating Liquor License, with the approval of the Commissioner of Public Safety, may be issued only to exclusive liquor stores.

- a. Total number of licenses to be issued for off-sale intoxicating liquor shall be limited to one license in the City of Nerstrand.
- b. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.
- c. The license shall be posted in a conspicuous place in the licensed establishment at all times.
- d. Off-sale intoxicating liquor license period is from January 1 through December 31.

1125.04 Discretionary Decision. The Council reserves its right to grant or deny the application for any license or permit and may grant or deny the transfer or renewal of any license or permit. No applicant has the right to a license or permit under this ordinance.

1125.05 Transferal of Licenses or Permits. No license or permit issued under this ordinance may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

1125.06 Application.

Subd. 1. Every application for a license or permit under this ordinance shall be on a form provided by the City. The City or its staff may amend the form from time to time.

Subd. 2. Every application shall state the name of the applicant, the applicant's age, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time.

Subd. 3. Prior to the issuance of any license under this ordinance, the applicant shall demonstrate proof of financial responsibility as defined in Minn. Stat. § 340A.409, as it may be amended from time to time, with regard to liability under Minn. Stat. § 340A.801, as it may be amended from time to time. This proof will be filed with the City and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to the minimum requirements of both this Ordinance and Minn. Stat. § 340A.409,

as it may be amended from time to time. Operation of a business which is required to be licensed by this ordinance without having on file with the City at all times effective proof of financial responsibility is a cause for revocation of the license. Subd. 4. As a condition for approval of the application, the applicant shall submit payment for the license fee reflecting the actuals incurred by the City of Nerstrand. No license or other fee established by the City shall exceed any limit established by Minn. Stat. Ch. 340A, as it may be amended from time to time, for a liquor license. Failure to furnish the fee shall be grounds for denial of the license.

Subd. 4. Applications for renewal of off-sale liquor license must be submitted to the city at least 30 days prior to the date of the expiration of the license. Subd. 5. Should the applicant provide false information, it will be ground for disqualification. The City reserves the right to request supplement rental information or documentation from the applicant outside of the application form.

1125.07 Restrictions and Conditions on Issuance.

The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

Subd. 1. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.

Subd. 2. No license shall be issued for any place or any business ineligible for a license under state law.

Subd. 3. Each license shall be issued only to the applicant for the premises described in the application.

Subd. 4. Not more than one license shall be directly or indirectly issued within the city to any one person. Subd. 5. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties civil or criminal provided by this ordinance and the law equally with the employee.

Subd. 6. Every licensee shall allow any peace officer, health officer, City employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

Subd. 7. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license.

Subd. 8. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale. 1125.10

Subd. 9. The failure by off-sale intoxicating liquor license who has received a fee reduction pursuant to section 1125.08 subd. 7 of this ordinance to abide with those provisions shall result in

suspension until those conditions are met.

1125.08. License Fees; Pro Rata

Subd. 1 The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this ordinance. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

Subd. 2 The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

Subd. 3 All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

Subd. 4 A refund of a pro rata share of an annual license fee may occur only if authorized by Minn. Stat. § 340A.408, subd. 5, as it may be amended from time to time.

Subd. 5. The fee for an off-sale intoxicating liquor license set forth in the city fee schedule shall not exceed \$240 or a greater amount which may be permitted by Minn. Stat. § 340A.408, subd. 3, as it may be amended from time to time.

Subd. 6. Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minn. Stat. § 340A.408 if at the time of initial application or renewal they:

- a. Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;
- b. Post a policy requiring identification checks for all persons appearing to be 30 years old or less;
- c. Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;
- d. Failure to abide by the provisions of this paragraph may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to Section 1125.09 of this ordinance.

1125.09. Suspension And Revocation.

Subd 1. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this ordinance relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing

body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

Subd 2. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this ordinance or Minn. Stat. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

- a. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, the license shall be revoked.
- b. The license shall be suspended by the Council after a finding under subd. 1 that the licensee has failed to comply with any applicable statute, rule, or provision of this ordinance for at least the minimum periods as follows:
 - (a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
 - (b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - (c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - (d) For a fourth violation within any three-year period, the license shall be revoked.
- c. The Council shall select the day or days during which the license will be suspended.

Subd 3. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this ordinance or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy 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 of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this ordinance have again been met.

Subd 4. The provisions of Section 1125.12 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this ordinance.

1125.10 Hours and Days of Sale.

Subd. 1. The hours of operation and days of sale must be consistent with the requirements of Minn. Stat. § 340A.504. Further, within the City there shall not be any sale of intoxicating liquor between the hours of 1:00 a.m. and 8:00 a.m.

Subd. 2. No sale of intoxicating liquor shall occur on Sundays, unless such authorization is obtained by authorization of the voters of the City in a general or special election as required by

Minn. Stat. § 340A.504, subd. 3.

1125.11 Insurance and Security.

Subd. 1. A certificate of insurance is required for all liquor licenses. The insurance must have a liability policy of not less than \$ 1 million for any person, \$ 2 million for any occurrence and property damage insurance of not less than \$ \$1 million, issued by an insurance company authorized to do business in the state of Minnesota. If the license being issued will include any event held on or partially on City property or within or partially within the City's right of way, the City must also be named as an additional insured, and the license holder must sign an agreement that holds the City harmless and indemnifies and defends the City against acts of the license holder. Proof of insurance must be provided to the City or its staff upon request. Failure to furnish proof of said insurance is grounds for immediate termination of the license.

Subd. 2. Further, prior to the issuance of any license, the applicant shall provide the City with security in the amount of _____ dollars in the form of an irrevocable letter of credit or other security acceptable to the city council (the "Security"). The Security shall be automatically renewing. The City may draw down the Security without advance notice for any violation of this Ordinance or Minnesota Law in the amount of the City's actual costs incurred from the violation. Drawing on the Security does not constitute a waiver of the City's rights to enforce the Agreement or seek alternative remedies. The applicant shall be required to replenish the Security when it is drawn from. This Security shall not constitute a limit on amounts that may be owed.

~~1125.12 Penalties. Violations of this Ordinance shall constitute a misdemeanor. Violations shall also incur an administrative fee of \$150.~~

Subd. 1. Any person violating the provisions of this ordinance or Minn. Stat. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

Subd. 2 The Council shall impose a civil penalty of up to \$2,000 for each violation of Minn. Stat. Ch. 340A, as it may be amended from time to time, and of this ordinance. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, Minn. Stat. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

- a. For the first violation within any three-year period, \$500.
- b. For the second violation within any three-year period, \$1,000.
- c. For the third and subsequent violations within any three-year period, \$2,000.

Subd. 3 The term "violation" as used in Section 23 includes any and all violations of the

provisions in this section, or of Minn. Stat. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

FORMALITIES

- a. **Filing with Applicable Library.** The Clerk is instructed to file a copy of the full text of the Ordinance with the County Law Library or its designated depository. Minn. Stat. § 415.021.
- b. **Publication.**
 - a. The Council hereby determines, by a four-fifths vote, that publication of the title and a summary of the ordinance would clearly inform the public of the intent and effect of the ordinance. Minn. Stat. § 412.191, subd. 4. For this purpose, the Council approves the following summary:
 - b. i. An ordinance establishing local rules and regulations relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor. The City Clerk is instructed to publish the Ordinance title and summary in the official newspaper within forty-five (45) days of its passage. Minn. Stat. §§ 415.02; 412.191, subd. 4; 331A.02; 331A.04. In the event that there was not a four-fifths vote that the title and summary are sufficient, the Clerk is instructed to publish the entire Ordinance.
 - c. The City Clerk is instructed to have said publication state an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, financial statements, and other official actions. The Clerk is also instructed to include a statement that the summary is only a summary and where and how the full ordinance may be obtained. Minn. Stat. § 331A.03, subd. 10.
 - d. The Clerk is also instructed to ensure that such publication is in a font type no smaller than brevier or eight-point type.
- c. **Recording in Ordinance Book.** The Clerk is instructed to record the Ordinance in the City Ordinance Book within twenty (20) days after the publication of the title and summary. The Clerk is further instructed to include proof of publication with the Ordinance as recorded in the Ordinance Book. Minn. Stat. §§ 412.151, subd. 1; 412.191, subd. 4.

NOW, THEREFORE, BE IT RESOLVED, the Council of City of Nerstrand hereby adopts this Ordinance.

Dated: Saturday, February 7, 2026 TBD

Abstentions:

Enacted by the City Council on _____.

Todd Evavold, Mayor

The Resolution

☐ Passes

☐ Fails

Signed & Attested by

Leanna Anderson-Speiker, City Clerk