

Ordinance No. 58

An ordinance licensing and regulating the sale and consumption of intoxicating liquor, repealing inconsistent ordinances, and providing penalty for violation.

The Council of the City of Badger ordains:

Section 1. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definitions of terms, licensing, 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.

Section 2. License Required.

Subd 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”, “on-sale” wine, “off-sale”, and club licenses.

Subd. 2. On-sale licenses. “On-sale” licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit “on-sale” of liquor only.

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 licensed premises only, in conjunction with the sale of food.

Subd. 4. Off-sale licenses. “Off-sale licenses shall be issued only to exclusive liquor stores and shall permit ‘off-sale’ of liquor only.”

Subd. 5. Special club licenses. Special club licenses shall be issued only to incorporated clubs which have been in existence for 15 years or more or to congressionally chartered veterans’ organizations which have been in existence for ten years.

Section 3. Application for License.

Subd 1. 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. In addition to containing such information, the application shall be in the form prescribed by

the commissioner of public safety 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, Subdivision 1. Surety bond or other security shall be in the sum of Five thousand and no/100ths (\$5,000.00) dollars for an applicant for an “off-sale” license or an “on-sale” wine license and Three thousand and no/100ths (\$3,000.00) dollars for an applicant for an “off-sale” license.

Subd. 3. Financial responsibility. Prior to the issuance of a liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes, Section 340A.409, Subdivision 1 with reference to liability under the statutes, Section 340A.801. Such proof shall be filed with the commissioner of public safety. (Applicants for wine licenses with sales of less than Ten thousand and no/100ths (\$10,000.00) dollars of wine per year.) Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes, Section 304A.409.

Subd. 4. Approval by 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 and “off-sale” 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 Subdivision 2 and 3 is a cause for revocation of the license.

Section 4. License Fees.

Subd. 1. Fees. The annual fees for a liquor license shall be One thousand nine hundred and no/100ths (\$1,900.00) dollars for an “on-sale” license, One hundred and no/100ths (\$100.00) dollars for an “on-sale” wine license, One hundred and no/100ths (\$100.00) dollars for an “off-sale” license, and Three hundred and no/100ths (\$300.00) dollars 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 actual cost 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 rate fee, with an unexpired fraction of the 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.

Section 5. Granting of Licenses.

Subd. 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 the actual cost to the city 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 Ten thousand and no/100ths (\$10,000.00) dollars 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.

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” wine license or “off-sale” license shall become effective until it, together with the security furnished by the applicant, has been approved 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 in the application. No license may be transferred to another person or place without city council approval. Any transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

Section 6. Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident within a five (5) mile radius of the city. No more than one intoxicating liquor license shall be directly or indirectly issued within the city to any one person.

Section 7. Places Ineligible for License.

Subd. 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 or delinquent and unpaid.

Section 8. Conditions of License.

Subd. 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 of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxication liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subd. 4. Inspections. Every licensee shall allow any peace officer, health officer, or properly designed 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.

Subd. 6. Federal stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

Section 9. Suspension and Revocation. The council may either suspend for a period not to exceed 60 days or revoke any liquor license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. 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, Section 15.0418 to 15.0426.

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 or 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 a 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 ten (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.

Section 10. Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor.

Section 11. Repeal. Ordinance No. 36 passed January 3, 1966, which established the Badger Municipal Liquor Store is hereby repealed.

Section 12. Effective Date. This ordinance, which establishes and regulates private retail liquor licensing in the City of Badger becomes effective May 1, 1986, unless contrary action is taken by the City Council prior to said date.

Passed by the council this 9th day of April, 1986.

Signed:

Loren Ballard, Mayor

Attest:

Joan Larson, Clerk

Published in the Badger Enterprise on October 1, 1986.