

TOWN OF BASS BROOK

ORDINANCE NUMBER TEN

ORDINANCE LICENSING AND REGULATING

OFF-SALE INTOXICATING LIQUOR

The Board of Supervisors of the Town of Bass Brook ordains:

Preface. WHEREAS, the Town of Bass Brook may exercise powers as a municipal town under Minnesota Statutes 368.01 Sub. (1), and WHEREAS, pursuant to said statute has the authority to issue off-sale licenses for the sale of intoxicating liquors pursuant to Minnesota Statutes 340.11 Sub. (10b), that pursuant to said statutes, the Town of Bass Brook ordains as follows:

Section 1. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of off-sale intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

Section 2. License Required.

- a. 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 town any intoxicating liquor without a license to do so as provided in this ordinance.
- b. Off-sale Licenses. Liquor licenses issued pursuant to this ordinance shall be "off-sale" licenses and shall be issued only to exclusive liquor stores. The town shall be permitted to issue one (1) off-sale license per each FIFTEEN HUNDRED ( 1,500 ) residents of the town as determined by the most recent regular or special federal census. However, irrespective of population, the town shall be authorized to issue a maximum of four ( 4 ) off-sale licenses.
- c. Other License Classifications. Regulation and licensing of "on-sale" (including Sunday on-sales), "on-sale wine" and "club" sales shall be pursuant to state law and county ordinance.

Section 3. Application for License.

- a. Information Required. Every application for a license shall be in writing to the Board upon such forms as the Board may from

time to time require and as from time to time may be required under the laws of the State of Minnesota and Regulations of the Commissioner of Public Safety. The application shall be filed with the Town Clerk and shall be set forth, in addition to other information as may from time to time be required by the Board, the following information:

- (1) If the applicant is an individual, the name, age, date and place of birth, and place of residence of the applicant.
- (2) If the applicant is a corporation, the name, state of incorporation and date of incorporation of the corporation. The name, age, date and place of birth, and place of residence of all members of the Board of Directors, the stockholders and officers of the corporation.
- (3) If the applicant is a partnership, the name of such partnership, the address of its principal office and the name, age, date and place of birth, and place of residence of all partners, whether they are general partners or limited partners.
- (4) The name, age, date and place of birth, and place of residence of the manager, principal operator or other person who will be conducting and/or managing the premises for which the application for the license is sought.
- (5) The name age, date and place of birth, and place of residence of any person having any financial interest in the business other than s an owner, stockholder, director, partner or resident manager.
- (6) The location of the premises upon which the applicant proposes to sell such liquor and an exact description of the particular place within the building structure where such sales are proposed.
- (7) Whether the applicant has ever engaged in a similar business, and if so, the location thereof and the date when so engaged.
- (8) A complete and detailed description of the nature of the business operation to be conducted on the premises, if a license is granted.
- (9) A complete listing of any and all convictions relating to any violations of state law or ordinances of any jurisdiction for the use or consumption of intoxicating liquor or non-intoxicating malt liquor and a complete listing of any and all gross misdemeanor and/or felony convictions.
- (10) The applicant, the resident manager, and any other person required by the Board during the course of the Board's investigation of the application shall furnish as a part of application fingerprints for the aid and assistance of the Board in conducting its investigation.

(11) State of Minnesota Form #PS-9136-02, Application For Off Sale Intoxicating Liquor License must also be submitted in duplicate.

- b. Initial License Fee. Each application shall also be accompanied by a certified check, Money order, cashier's check or cash in an amount equal to the license fee for the initial period of issue.
- c. 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 340.12. Such surety bond or other security shall be in the sum of Three Thousand and 00/00 (\$3,000.00) Dollars.
- d. Liability Insurance. Prior to the issuance of a license, the applicant shall file with the Town Clerk a liability insurance policy which shall comply with the provisions of Minnesota Statutes, Section 304.12 relating to liability insurance policies. If a liability insurance policy is made subject to all the conditions of a bond under that statute, the policy may be accepted by the Board in lieu of the bond required under subsection c of this Section 3.
- e. Approval of Security. The security offered under subsections c and d of this Section 3 shall be approved by the Board and by the State Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the Town Attorney. Operation of a licensed off-sale business without having on file with the town at all times effective security as required in subsections c and d of this Section 3 is a cause for revocation of the license.
- f. Applicant Bound. The applicant shall be bound by all answers and information furnished on the applicant presented to the Board. Any falsification of information requested by the Board in the course of its investigation of the applicant or the applicant's general manager, shall be grounds for denial of the license. Likewise, such falsification of information shall be grounds for revocation of the license if the license is approved and issued prior to discovery of such falsification.

Section 4. License Fees.

- a. Fees. The annual fee for a license shall be five hundred and no/100 Dollars (\$ 500.00 ).
- b. Payment. Each application for a license shall be accompanied by a receipt from the Town Treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the Town Treasurer shall refund the amount paid as the license fee.
- c. Term; Pro Rata Fee. Each license shall be issued for a period of one (1) year. However, if the application is made during the license year, a license may be issued for the remaining of the

year for a pro rata fee, with any unexpired fraction of a month being counted as one (1) month. Every license shall expire on the last day of January of each year.

- d. Refunds. No refund of any fee shall be made except as authorized by statute.

#### Section 5. Granting of License.

- a. Hearing and Issuance. The Board shall investigate, to the extent it deems necessary, all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Board shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.
- b. Investigation Expense. The applicant for a license shall be responsible for the cost of investigation conducted in connection with the processing of the application for a license. Upon completion of said investigation, a written statement of time and expenses incurred in conducting the investigation shall be prepared. The cost of an in-state investigation of an applicant shall not exceed Two Thousand and 00/00 (\$2,000.00) Dollars and the cost of an out-state investigation of an applicant shall not exceed Ten Thousand and 00/00 (\$10,000.00) Dollars. In connection with an application for a license, a minimum investigation fee of One Hundred and 00/00 (\$100.00) Dollars shall be charged to the applicant. All investigation fees shall be paid by the applicant prior to the issuance of a license if the application is approved by the Board. If the license is denied, all investigation fees shall be deducted from the amount deposited with the said Town Clerk upon filing of the application. The balance of said amount shall then be returned to the unsuccessful applicant.
- c. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant for the premises described in the application. No license may be transferred to another person or place without the approval of the Board. Any transfer of stock of a corporation license holder is deemed a transfer of the license and a transfer of stock without prior Board approval is ground for revocation of the license.

Section 6. Persons Ineligible for License. No license shall be granted to any person made ineligible for such license by state law. No more than one license shall be directly or indirectly issued within the town to any one person.

#### Section 7. Places Ineligible for License.

- a. General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

- b. Exclusive Liquor Stores Only. No license shall be issued to any business except an exclusive liquor store as defined in Minnesota Statutes 340.07 Sub. (13).
- c. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the town are delinquent and unpaid.

#### Section 8. Resident Manager.

- a. When Required. If a license holder is a person other than an individual engaged in the active day to day management of the business or if the license holder is a corporation, such license holder shall designate in writing to the Board the name of a resident manager.
- b. Qualifications. If a resident manager is required under the terms of this ordinance, the resident manager shall be an individual actively engaged in the day to day management of the business and shall have the usual and customary duties and responsibilities consistent with the direction of the operation of the business, including, but not limited to, the authority to hire and fire employees, set operation policy, purchase inventory to be used in the operation of the business, and such other usual and customary responsibilities.
- c. Change in Resident Manager. If a license holder is required by the terms of this ordinance to have a resident manager, the license holder shall report the change of said resident manager to the Board and shall submit an application to the Board for approval of said resident manager. The Board shall then review and investigate the application for the substitute resident manager in the same manner as the investigation for a new applicant for a license.

#### Section 9. Conditions of License.

- a. In general. Every license is subject to the conditions in the following subsections and all other provisions of this ordinance and of any other applicable ordinance, state law or regulation.
- b. License Holder's Responsibility. Every license holder is responsible for the conduct of this place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the license holder as well. The license holder shall be liable to all penalties provided by this ordinance and the law equally with the employee. In the case of a corporate license holder, the liability for the license holder's responsibilities shall apply equally to the license holder and to the officers, directors and shareholders of the license holder.
- c. Inspections. Every license holder shall allow any peace officer, health officer, or properly designated officer or employee of the

town, to enter, inspect, and search the premises of the license holder during business hours without a warrant.

- d. Federal Stamps. No license holder shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

Section 10. Hours and Days of Sale. The hours and days of sale for licenses issued pursuant to the terms of this ordinance shall be the same as set forth in the intoxicating liquor act of the State of Minnesota adopted by reference as a part of this ordinance.

Section 11. No License Issued Pursuant to the terms of this ordinance shall be held for a period longer than one (1) year after its approval for issuance by the Board Supervisors of the Town of Bass Brook without being actively used to operate a business for which the license is obtained. In the event the license is not made active within the period of one (1) year for approval of its issuance, the Town Board may revoke said license and the license fees paid for such license shall be non-refundable.

Section 12. Suspension and Revocation. The Board may either suspend for not to exceed sixty (60) days or revoke any license upon a finding that the license holder has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the license holder has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section 15.0418 to 15.0426.

Section 13. 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 Five Hundred and 00/00 (\$500.00) Dollars or imprisonment in the County jail for not more than ninety (90) days, or both, plus the cost of prosecution in any case.

This ordinance shall not be rendered invalid in full should any portion of said ordinance be declared illegal or unconstitutional by a court of competent jurisdiction, only such portions thereof shall be so affected by said court order shall become invalid, and all other parts of the ordinance not affected by said court order shall remain in full force and effect.

This ordinance shall become effective upon its passage by the Town Board and publication in a legal newspaper of the Town Board as required by state law.

Passed by the Board of Supervisors of the  
Town of Bass Brook this 26th day of  
July, 1983.

  
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST

  
CITY CLERK