

ORDINANCE NO. 0199

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, AND PROVIDING A PENALTY FOR VIOLATION

The City Council of the City of Newfolden ordains:

**Section 1 - Provisions of State Law Adopted.**

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.

**Section 2 - Intoxicating Liquor License Required.**

Subd. 1. General Requirement. No person 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 five kinds: Retail "on-sale", temporary "on-sale", "on-sale" wine, retail "off-sale", and club licenses.

Subd. 2. Number of Licenses. The following number of licenses may be issued by the City:

	Number
A) Retail "On-Sale" .....	3
B) Retail "Off-Sale" .....	3

Subd. 3. On-Sale Licenses. On-sale intoxicating liquor licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores, and shall permit "on-sale" of liquor only.

Subd. 4. 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 connection with the sale of food.

Subd. 5. 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 nonprofit organizations in existence for at least three years. A temporary license authorizes the 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. 6. Off-Sale Licenses. Off-sale intoxicating liquor licenses shall be issued only to exclusive liquor stores or specially designated areas in other locations holding an on-sale license.

Subd. 7. 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 and meet the qualifications of Minnesota Statutes, Section 340A.101, Subdivision 7.

### **Section 3 - Application for License.**

Subd. 1. Form. Every application for a license to sell liquor shall state the name of the applicant, the applicant's age, representations as to the applicant's character (with such references as the council may require), the type of license applied for, the business and connection with which the proposed license will operate and its location, whether the applicant is the owner and operator of the business, how long the applicant 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. 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 \$500.00 for an applicant for an on-sale license.

Subd. 3. Financial Responsibility. No liquor license may be issued, renewed, or maintained unless the applicant demonstrates proof of financial responsibility as defined in Section 340A.409 with regard to liability under the Minnesota Statutes, Section 340A.801. Such proof shall be filed with the Commissioner of Public Safety. 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 Subd. 2 shall be approved by the city council. Liability insurance policies required by this ordinance, but not by state law, and surety bonds required under Subd. 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 cause for suspension or revocation of license.

#### **Section 4. Granting of Licenses.**

Subd. 1. Preliminary Investigation. On an initial application for an on-sale license or an application for transfer of an existing on-sale license, the applicant may pay with his application an investigation fee to be determined by the council and the City may conduct a preliminary background and financial investigation of the applicant. The application in such case may 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.

Subd.2. Hearing and Issuance. The City Council may investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subd. 1. Opportunity may be given to any person to be heard for or against the granting of the license. If the Council determines that there be an investigation and hearing, after this investigation and hearing is completed, the Council shall, in its discretion, grant or refuse the application. No on-sale wine license or off-sale intoxicating liquor shall become effective until it 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 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 licensee is deemed a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license.

#### **Section 5. Condition of Licenses.**

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 regulations.

Subd. 1. 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. 2. 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. 3. 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. 4. Display During Prohibited Hours. No "on-sale establishment" shall display liquor to the public during hours when the sale of liquor is prohibited.

Subd. 5. Hours of Sale. No sale of intoxicating liquor for consumption on the licensed premises may be made:

(1.) between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturdays;

(2.) after 1:00 a.m. on Sundays.

## **Section 6. License Fees.**

Subd. 1. Fees. The annual fee shall be \$1,100.00 for an on-sale intoxicating liquor license; \$250.00 for an on-sale wine license; \$100.00 for an off-sale intoxicating liquor license; and \$1,100.00 for a special club license. These fees are subject to change from time to time by the City Council. This subdivision is not required to be amended to incorporate fee changes. The fee for a temporary on-sale intoxicating liquor license shall be set by the Council at the time the application is approved.

Subd. 2. Payment. Each application for a license shall be accompanied by a receipt from the city treasurer for the payment in full of the license fee and the fixed investigation fee required under Section 4, Subd. 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: Prorata Fee. Each license shall be issued for a 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 prorata fee, with an 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.

**Section 7. Suspension and Revocation.**

The Council shall either suspend for up to 60 days or revoke any retail license or impose a civil fine not to exceed \$2,000.00, for each violation upon a finding that the licensee has failed to comply with an applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility required by Minnesota Statutes, Section 340A.409, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing under Section 14.57 to 14.70 of the Administrative Procedure Act.

Lapse of required insurance or bond, or withdrawal of a required deposit of cash or securities required by Minnesota Statutes, Section 340A.409, shall effect an immediate suspension of any license issued pursuant to this Ordinance without further action by 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 issuance 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.

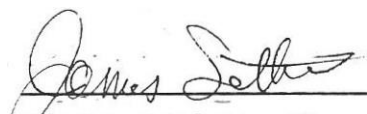
**Section 8. Penalty.**

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by fines and imprisonment up to a maximum as provided by state law for misdemeanor convictions.

**Section 9. Effective Date.**

This Ordinance becomes effective upon its passage and publication according to law.

1st Reading	12-07-98	
2nd Reading	12-21-98	
3rd Reading	& adoption of ordinance	01-04-99

  
James Sethre, Mayor

  
Grace Lindquist, Clerk

AMENDMENT TO AN ORDINANCE LICENSING AND REGULATING  
THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR, AND PROVIDING A  
PENALTY FOR VIOLATION

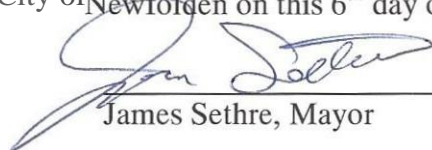
The City of Newfalden Ordinance No. 0306B related to the licensing and regulating the sale and consumption of intoxicating liquor, and providing a penalty for violation is hereby amended as follows:

**Section 5. Condition of Licenses.**

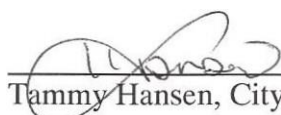
Subd. 6. Purpose. The City of Newfalden does hereby ordain that it is in the best interest of the public health, safety and general welfare of the people of the City of Newfalden that certain types of activities, as set forth in this ordinance are prohibited upon the premises of licensed liquor, wine, and beer establishments so as to best protect and assist the owners and operators and employees of these premises, as well as patrons and the public in general. Further, that the City does ordain that the standards in this ordinance reflect the prevailing community standards in the City of Newfalden. This ordinance is intended to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. We also desire to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault, and disorderly conduct.

a) General Acts Prohibited. It shall be unlawful for any licensee to permit or allow any person or persons from being upon the licensed premises when such person does not have his or her buttocks, anus, breast, and genitals covered with a non-transparent material.

Adopted by the City Council of the City of Newfalden on this 6<sup>th</sup> day of March, 2006.

  
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James Sethre, Mayor

ATTEST:

  
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Tammy Hansen, City Administrator