

## **HUBBARD COUNTY ORDINANCE NUMBER NINE**

### **AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF WINE, AND PROVIDING A PENALTY FOR VIOLATION THEREOF**

The Hubbard County Board of Commissioners does ordain as follows:

#### **SECTION I. 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 sales, distribution and consumption of intoxicating liquor insofar as they are applicable to wine licenses authorizing 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, are adopted and made a part of this ordinance as if set out in full.

#### **SECTION II. WINE LICENSES.**

No person, except a wholesaler or manufacturer to the extent authorized under state license, and the municipal liquor dispensary, shall directly or indirectly deal in, sell, or keep for sale in the County any wine not exceeding 14 percent alcohol by volume without an on sale wine license. An on sale wine license authorizes 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. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. For purposes of this ordinance, a restaurant means an establishment, under the control for a single proprietor or manager, having appropriate facilities for serving meals, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests.

#### **SECTION III. APPLICATION FOR LICENSE.**

- Subd. 1 Every application for on-sale wine license shall state the name of the applicant, his age, representations to his character, with such references as the Board may require, his citizenship, the restaurant in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the restaurant, how long he has been in the restaurant business at that place, and such other information as the Board may require from time to time. In addition to containing such information the application shall be in the form prescribed by the liquor control director and shall be verified and filed with the County Auditor. 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 340.12. Such surety bond or other security shall be in the sum of \$3,000.00 for an application for on “on-sale” wine license.

- Subd. 3      **LIABILITY INSURANCE.** Prior to the issuance of a wine license, the applicant shall file with the County Auditor a liability insurance policy in the amount of \$10,000.00 coverage for one person and \$20,000.00 coverage for more than one person and shall comply with the provisions of Minnesota Statutes, Section 340.12 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 of Commissioners in lieu of the bond required under Subdivision 2.
- Subd. 4      **APPROVAL OF SECURITY.** The security offered under Subdivisions 2 and 3 shall be approved by the County Board and the State liquor control director. Surety bonds and liability insurance policies shall be approved as to form by the County Attorney. Operation of a licensed business without having on file with the County at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

#### SECTION IV. LICENSE FEES.

- Subd. 1      **AMOUNT.** The annual fee for a wine license shall be as determined by the Hubbard County Board of Commissioners, subject to limitations imposed by Statute.
- Subd.2      **PAYMENT.** Each application for a wine license shall be accompanied by a receipt from the County 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 treasurer shall refund the amount paid.
- 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, 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 1<sup>st</sup> day of June.
- Subd. 4      **REFUNDS.** No refund of any fee shall be made except as authorized by statute.

#### SECTION V. GRANTING OF LICENSES.

- Subd. 1      **INVESTIGATION AND ISSUANCE.** The County Board shall investigate 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 wine

license shall become effective until it, together with the security furnished by the applicant, has been approved by the State Liquor Control Director.

- Subd. 2 PERSON AND PREMISES LICENSED: TRANSFER. Each license shall be issued only to the application and for the premises described in the application. No license may be transferred to another person or place without County Board approval. Any transfer of stock of a corporate license is deemed a transfer of the license and a transfer of stock without prior County Board approval is ground for revocation of the license.

#### SECTION VI. PERSONS INELIGIBLE FOR LICENSE.

No wine 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 of the County.

#### SECTION VII. PLACES INELIGIBLE FOR LICENSE.

- Subd. 1 GENERAL PROHIBITION. No wine license shall be issued for any restaurant ineligible for such a license under state law.
- Subd. 2 TIME IN BUSINESS. No license shall be issued to any restaurant until it has been in operation continuously for at least six months.
- Subd. 3 DELINQUENT TAXES AND CHARGES. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the County are delinquent and unpaid.
- Subd. 4 DISTANCE FROM SCHOOL OR CHURCH. No license shall be granted for a building within 1,000 feet of any school or within 1,000 feet of any church.

#### SECTION VIII. 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 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 intoxicating 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. 3 INSPECTIONS. Every Licensee shall allow any peace officer, health officer, or properly designated officer or employee of the County to enter, inspect and search the premises of the licensee during business hours without a warrant.

Subd. 4        DISPLAY DURING PROHIBITED HOURS. No licensee shall display wine to the public during hours when the sale of wine is prohibited.

Subd.5        FEDERAL STAMPS. No licensee shall possess a federal wholesale liquor dealer's special stamp or federal gambling stamp.

#### SECTION IX. SUSPENSION AND REVOCATION.

The County Board may either suspend for not to exceed 60 days or revoke any on-sale wine license upon a finding that the licensee has failed to comply with any applicable statute, regulation or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section s 15.0418 to 16.0426.

#### SECTION X. 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 \$300.00 or imprisonment in the County Jail for not more than 90 days plus the cost of prosecution in any case.

#### SECTION XI. EFFECTIVE DATE.

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

Passed by the Board of Commissioners this 12<sup>th</sup> day of July 1976.

Amendment Number 1 to County Ordinance Number 9.

AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF WINE, REPEALING INCONSISTENT ORDINANCE AND PROVIDING A PENALTY FOR VIOLATION.

Of Hubbard County, Minnesota

Be it ordained and enacted by the County Board of Commissioners of the County of Hubbard, State of Minnesota, that these Amendments following, by this act, hereby replace and nullify those like numbered clauses now existing and a part of County Ordinance Number 9, or are newly enacted section which, upon their enactment, become a part of County Ordinance Number 9.

Section 7. (Amended June 15, 1988 to delete Subdivision 2 and to renumber Subdivision 3 and 4 to be Subdivisions 2 and 3 respectively, as follows):

Section 7. PLACES INELIGIBLE FOR LICENSE.

Subdivision 1. GENERAL PROHIBITION. No wine license shall be issued for any restaurant ineligible for such a license under state law.

Subdivision 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 County are delinquent and unpaid.

Subdivision 3. DISTANCE FROM SCHOOL OR CHURCH. No license shall be granted for a building within 1,000 feet of any school or within 1,000 feet of any church.

Section 10. (Amended June 15, 1988 to concur with current state law as follows):

Section 10. 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 \$700.00 or imprisonment in the County Jail for not more than 90 days or both plus the cost of prosecution in any case.

Section 11. EFFECTIVE DATE. This ordinance becomes effective upon its passage and publication according to law.

Passed by the Board of Commissioners this 15<sup>th</sup> day of June 1988.

**Amendment Number 2 to County Ordinance Number 9.**

**AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF WINE, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION.**

**Of Hubbard County, Minnesota**

Be it ordered and enacted by the County Board of Commissioners of the County of Hubbard, State of Minnesota, that this Amendment following, by this act, hereby replace and nullify those like numbered clauses now existing and a part of the County Ordinance Number 9, or are newly enacted sections which, upon their enactment, become a part of County Ordinance Number 9.

**Section 1. PROVISIONS OF STATE LAW ADOPTED.** The provisions of Minnesota Statutes Chapter 340, relating to the definition of terms, licensing, consumption, sales, liquor liability insurance, hours of sale, and all other matters pertaining to the retail sale, distribution and consumption of intoxicating liquor insofar as they are applicable to wine licenses authorizing the sale of wine not exceeding 14 percent alcohol by volume for consumption on the licensed premises only, in conjunction with sale of food, are adopted and made a part of this ordinance as if set out in full.

**Section 2. WINE LICENSES.** No person, except a wholesaler or manufacturer to the extent authorized under state license, and the municipal liquor dispensary, shall directly or indirectly deal in, sell, or keep for sale in the County and wine not exceeding 14 percent alcohol by volume without an on-sale wine license. An on-sale wine license authorizes 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. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. For purposes of this ordinance, a restaurant means an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable services to its guests.

A holder of an on-sale wine license who is also licensed to sell 3.2 percent malt liquor at on-sale pursuant to Minnesota Statute §340A.411 and whose gross receipts are at least 60 percent attributable to the sale of food, may also sell intoxicating malt liquor, on-sale, without obtaining an additional license.

**DELETE** Section Three (3), Subdivision One (1), Two (2), Three (3), and Four (4)

**Section 4 Subdivision 3. TERM PRO RATA FEE.** Each license shall be issued for a period of one year except that if the application is made for the first time, 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. **Pro Rata fees** will apply to first year licenses only.

**DELETE** Section Six (6), Section Seven (7), Subdivision One (1), Two (2), Three (3), Four (4), Section Eight (8), Subdivision One (1), Two (2), Three (3), Four (4), and Five (5).

**Section 10. 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 \$700.00 or imprisonment in the County Jail for not more than 90 days plus the cost of prosecution in any case.

**Section 11. EFFECTIVE DATE.** This ordinance becomes effective upon its passage and publication according to law.

Passed by the Board of Commissioners this 5<sup>th</sup> day of June 1996.