

ORDINANCE #128

ORDINANCE AMENDING ORDINANCE NO. 74 OF THE CITY OF GLYNDON, MINNESOTA, AND RELATING TO THE LICENSING AND REGULATING OF THE SALE AND CONSUMPTION OF INTOXICATING LIQUOR.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLYNDON AS FOLLOWS:

SECTION 1. All ordinances enacted prior hereto establishing a municipal liquor dispensary for and in the Village, now City, of Glyndon, Minnesota, and all other ordinances enacted hereto concerning the subject matter of this ordinance are herewith repealed.

SECTION 2. The provisions of Minnesota Statutes, Chapter 340A, with reference to the definition of terms, application for license, sales, conditions of bonds of licenses, restrictions on consumption, provisions on sales, conditions on bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor are hereby adopted and made a part of this ordinance as is fully set out herein.

SECTION 3. No person, except wholesalers or manufacturers, to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance. Licenses shall be of two kinds; namely, "on sale" and "off sale". Not more than four "on sale" licenses and four "off sale" licenses shall be granted by the City of Glyndon at any one time. An "off sale" license may be issued to a holder of an "on sale" license.

SECTION 4. On-Sale Wine: On-sale wine licenses shall be licenses authorizing the sale of wine not exceeding fourteen percent (14%) alcohol by volume for consumption on the licensed premises only, and only in conjunction with the sale of food, to be issued only to restaurants as defined in this Chapter.

SECTION 5. Every application for a license to sell liquor shall be verified and filed with the City Clerk. It shall state the name of the applicant, his or her age, or both, representations as to character where such references may be required, his citizenship, whether the application is for an "on sale" or for an "off sale" license, the business in connection with which the proposed license will operate, its location, whether the applicant is the owner and operator, how long he has been in that business at that place, and such other information as the City Council may require from time to time. In addition to containing such information, each application for a license shall be in a form prescribed by the Liquor Control Commissioner. Any false statements made in the application for license shall be grounds for the denial of the same.

SECTION 6. Each application for a license shall be accompanied by a surety bond as provided in Minnesota Statutes, Chapter 340A. The surety bond for an "off sale" license shall be in a sum of \$1,000 and the surety bond for an "on sale" license shall be in the sum of \$3,000. such surety offered under this ordinance shall be approved by the City Council, and in the case of an applicant for an "off sale" license shall be approved by the State Liquor Control Commissioner. Any operation of either an "off sale" or an "on sale" liquor business, without having on file at all times with the City Council an effective bond as herein provided, shall be grounds for immediate revocation of the license.

SECTION 7. Each application for a license shall be accompanied by a receipt from the City Clerk in the sum of \$2,000 for an "on sale" license and by a receipt in the sum of \$100 for an "off sale" license.

SECTION 8. Resident Manager:

- A. If a license holder is a person other than an individual engaged in the active day-to-day management of the business, such license holder shall designate in writing to the City the name of a resident manager.
- B. If a license holder is an individual, such individual shall be a resident of the City and shall be involved in the operation of the business in the same manner as a designated resident manager and, if not, shall designate a resident manager who will have the same requirements as a resident manager for a person other than an individual license holder.
- C. In the event designated resident managers are required under the terms of this Chapter for a license holder, the designated resident managers shall be individuals actively engaged in the day-to-day management of the business and shall have 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, secure entertainment, purchase inventory to be used in the operation of the business, and such other usual and customary responsibilities. The resident managers shall be residents of Clay County, Minnesota, or Cass County, North Dakota, at all times during their designation as resident managers.

SECTION 9. Granting of Licenses:

- A. Investigation: Upon receipt of an application for a license, together with the accompanying license fee and surety bond, the City Clerk shall determine if such application is in order as to content and execution. The City Clerk shall then refer the application to the Police Department of the City for an investigation of the background and character of the applicant and any persons associated with applicant in the conduct of the business proposed to be licensed. The investigation, among other things, should reveal the character and/or reputation of the applicant for a license and the applicant's ability and willingness to comply with the terms of this Chapter. The Council shall act and either approve or deny the issuance of said license on the basis of said investigation.
- B. Change in Resident Manager: In the event a license holder is required by the terms of this Chapter to have a designated resident manager, the license holder shall report the change of said resident manager to the City Clerk within fifteen (15) days and shall submit an application to the City Clerk for approval of said resident manager. The City Clerk shall then refer the application to the Police Department for review and investigation in the same manner as the investigation for a new applicant for a license.

SECTION 10. Hours and Days of Sale:

- A. The hours and days of sale for licenses issued pursuant to the terms of this Chapter shall be the same as those set forth in chapter 340A of the Intoxicating Liquor Act of the State of Minnesota adopted by reference as a part of this Chapter.
- B. No patrons of on-sale license holders shall remain on the licensed premises after one thirty o'clock (1:30) A.M. and in any event no persons except bona fide employees of the license holder or a janitorial service shall remain on the licensed premises after one thirty o'clock (1:30) A.M. unless they are actively engaged in a clean-up operation for the premises. No person, including employees of licensed premises or of the cleaning service shall consume any intoxicating liquor or nonintoxicating malt liquor on the licensed premises after one thirty o'clock (1:30) A.M. until the licensed premises can next properly be opened for business. Any unconsumed intoxicating liquor or nonintoxicating malt liquor remaining on the premises, other than that necessary for inventory purposes, shall be disposed of at one thirty (1:30) A.M. No unconsumed intoxicating liquor or nonintoxicating malt liquor shall be removed from the premises for consumption at a different place by any employee or patron.

SECTION 11. Entertainment Restrictions:

- A. Prohibited Acts: No entertainment on a licensed premises shall contain:
 - 1. The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law:
 - 2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals:
 - 3. The actual or simulated displaying of the pubic hair, anus, vulva or genitals;
 - 4. The performance of any nude dancing or display of nudity by employees of the licensed premises or patrons of the licensed premises.
- B. Definitions: For the purposes of this Section, the following shall mean:

ENTERTAINMENT All forms and types of performing or entertaining for patrons on licensed premises without regard to whether the person performing or entertaining is paid a monetary consideration or other consideration or merely performs or entertains without consideration.

NUDITY

The showing of the human male or female genitals, pubic area or buttocks or the human female breast including the nipple or any portion below the nipple with less than a full opaque covering; provided, however, for entertainment purposes only "with less than a full opaque covering" shall mean or include the wearing of pasties.

- C. Licensee's Responsibility: A licensee shall have the duty and responsibility of supervising all entertainment as defined herein and any violation of this Section shall be grounds for immediate revocation of the liquor license held by the licensee.

SECTION 12. No minor shall misrepresent his age for the purpose of obtaining intoxicating liquor. No person shall induce a minor to purchase or procure liquor. No person shall mix or prepare liquor for consumption in any public place or places of business not licensed to sell liquor "on sale", and no person shall consume liquor in any such place. No liquor shall be sold or consumed on a public highway or in an automobile.

SECTION 13. The City Council may suspend or revoke any liquor licensee for violation of any provision or condition of this ordinance or any State law regulating the sale of intoxicating liquor and shall revoke such license if the licensee willfully violates any provisions of Minnesota Statutes, Chapter 340A. Except in the case of a suspension pending a hearing on revocation, revocation or suspension by the City Council shall be preceded by written notice to the grantee with right to a public hearing. The notice shall give at least eight (8) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The City Council may, without any advance notice, suspend any license pending a hearing on revocation for a period not exceeding thirty (30) days.

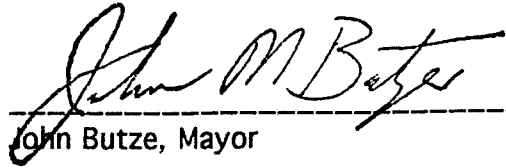
SECTION 14. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700 or imprisonment in the City or County jail for not more than 90 days, or both, plus the costs of the prosecution in either case.

SECTION 15. Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.

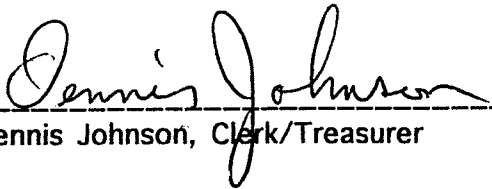
SECTION 16. This ordinance shall be in full force and effect from and after August 9, 1995 and its publication according to law.

Enacted by the City Council of the City of Glyndon, Minnesota, this 9 day of August, 1995.

APPROVED:



John Butze, Mayor



Dennis Johnson, Clerk/Treasurer