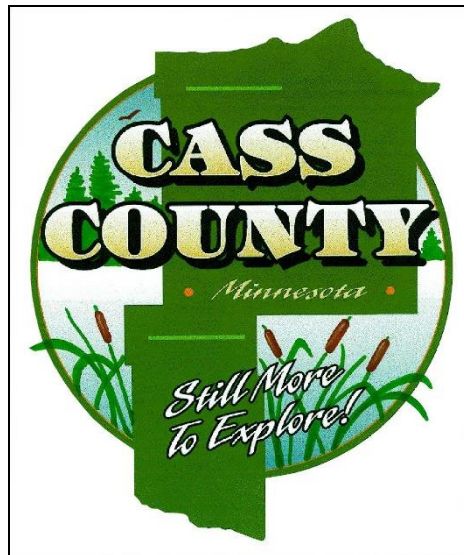


# ORDINANCE NO. 2018-01

## LIQUOR LICENSE REGULATIONS FOR CASS COUNTY, MINNESOTA



EFFECTIVE DATE: July 1, 2018

Amendments - June 19, 2018 incorporated

Amendments - August 4, 2009 incorporated

**ORDINANCE NO. 2018-01**

**CASS COUNTY LIQUOR LICENSE REGULATIONS**

**AN ORDINANCE RELATING TO LICENSING AND REGULATING THE SALE OF  
LIQUOR IN ANY TOWNSHIP AND THE UNORGANIZED AREA OF  
CASS COUNTY, MINNESOTA**

The Board of County Commissioners for the County of Cass, Minnesota, does hereby ordain as follows:

**PROVISIONS OF STATE LAW ADOPTED** The provisions of Minnesota Statutes, Chapter 340A, and relating to the definition of terms, licensing, consumption, sales, distribution, and consumption of intoxicating liquor are adopted, including revisions, are incorporated and part of this Ordinance. Commonly referenced provisions of Minn. Stats §340A are within this Ordinance for reference.

**LICENSES REQUIRED** No person, except a wholesaler, manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale in any township or unorganized area in the county any liquor with a license to do so as provided in this Ordinance. No license is valid unless approved by the commissioner of the state.

On-sale intoxicating (annually July 17<sup>th</sup> – midnight July 16<sup>th</sup>)

In accordance with Minn. Stats §340A.404 Subd.6, on-sale intoxicating liquor licenses may be issued to establishments in unorganized or unincorporated areas of the county that qualify under state liquor laws as a bowling center, restaurant, club, or hotel for consumption on the licensed premises only in conjunction with the sale of food. As allowed under Minn. Stats. §340a.404 Subd.10(a) and (b), a temporary on-sale license may be issued to a charitable, religious, or non-profit organization for a period not to exceed four (4) days.

On-sale and Off-sale 3.2 percent malt liquor (annually December 1<sup>st</sup> – midnight November 30<sup>th</sup>)

On-sale and off-sale licenses, including temporary licenses, may be issued as authorized under Minn. Stats. §340A.403.

An on-sale wine license (annually July 17<sup>th</sup> – midnight July 16<sup>th</sup>), with strong beer authorization, may be added to a 3.2 percent malt liquor on-sale license and is authorized under Minn. Stats. §340A.404 Subd.5(a) and (b) for consumption on the licensed premises only, in conjunction with the sale of food. Wine is defined in Minn. Stats. §340A.101, Subd.29.

Consumption and display permits (annually April 1<sup>st</sup> – midnight March 31<sup>st</sup>) are available to establishments that hold a 3.2 percent malt liquor on-sale license. This permit authorizes the consumption and display of intoxicating liquor on the premises. It does not authorize the sale of intoxicating liquor.

On-sale wine licenses (annually July 17<sup>th</sup> – midnight July 16<sup>th</sup>) may also be issued to a licensed bed and breakfast facility as authorized under Minn. Stats §340A.404 Subd.5(c) and shall permit the facility to furnish wine only to registered guests of the facility.

On-sale brewer taprooms (annually December 1<sup>st</sup> – midnight November 30<sup>th</sup>)

Manufacturer/brewer means every person, except an intoxicating on-sale licensee who, by any process of manufacture, brewing, or by the combination of different materials, prepares or produces beer for sale. This license is issued in accordance with Minn. Stats §340A.2b. The applicant for this license must be a brewer licensed under Minn. Stats § 340A.301, Subd.6(c), (i), or (j).

Under Minn. Stats. §340A.404 Subd.10(c)The County Board may issue to a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer. The requirements of Minn. Stats. §340A.409 Subd1 to 3(a) shall apply.

Off-sale intoxicating (annually July 17<sup>th</sup> – midnight July 16<sup>th</sup>)

Intoxicating off-sale licenses may be issued to exclusive liquor stores located with a town or unorganized territory of the County, in accordance with Minn. Stats. 340A.405, Subd.2. A combination off-sale and on-sale license may be issued to a restaurant. No licenses may be issued within a town unless a town board adopts a resolution supporting the issuance of the license. A public hearing must be held on the issuance of the license, and notice must be given to all interested parties and to any city located within three (3) miles of the premises proposed to be licensed. Under Minn. Stats. §340A.405 Subd.2(e), the County Board is restricted from issuing licenses to establishments that are located within certain boundaries of an established municipal liquor stores or certain proximity to metropolitan areas.

Off-sale brew pub license (growlers) (annually December 1<sup>st</sup> – midnight November 30<sup>th</sup>)

In accordance with Minn. Stats. §340.24 Subd.2, a brew pub that holds an on-sale license may be issued a license for off-sale of malt liquor produced and packaged on the licensed premises. Off-sale malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brew pub is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. A brew pub's total retail sales at on- or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 750 barrels.

Packaging of mail liquor for off-sale must comply with Minn. Stats §340A.285.

**APPLICATION FOR A LICENSE** An application for a liquor license shall be obtained from the County Auditor-Treasurer, and the completed application shall be verified and filed with the County Auditor-Treasurer. No person shall make a false statement in an application. The applicant must obtain written approval of their Town Board, the County Sheriff, and the County Attorney prior to submitting an application to the County Board in accordance with Minn. Stats. §340A.410. The County Board shall consider the recommendation of the County Sheriff and County Attorney, the character and reputation of the application, and the nature and location of the business prior to issuance of any license. Initial applicants shall be subject to a preliminary background and financial investigation in accordance with Minn. Stats. §304A.402 and §340A.412 Subd.2.

The County Board may deny a license in an area that is restricted against commercial use through zoning ordinances and other proceedings or legal process regularly had for the purpose, except licenses may be issued to restaurants in areas where said restrictions occurred after the establishment of the restaurant (Minn. Stats.340A.412 Subd.4).

No license shall be granted under this Ordinance to any applicant owing or to any premises on which federal, state, or local taxes, including property taxes, assessments, or other financial claims are delinquent and unpaid in accordance with Minn. Stats. §270C.72.

Any request for a new license must be presented at least 60 days prior to the requested effective date and any renewal must be presented with all the requirements met, 30 days prior to the effective date. Late renewals for intoxicating on and off sale liquor licenses shall pay a \$100 late fee which must accompany the completed application. If a special meeting of the County Board is required for action on a late application, the applicant shall be responsible for all costs related to that meeting.

**Mandatory Training – New License Applicants** All new license applicants and their employees that will be selling or serving any alcoholic beverage of the licensed premises shall complete an approved server education training as a condition of license approval. The new license applicant shall certify completion of training prior to license issuance.

**FEES** The fees for liquor licenses shall be established by resolution of the County Board pursuant to Minn. Stats. §340A.408.

Upon submission of a completed application for refund of an on-sale intoxicating license, a monthly pro rata share of the annual license fee, less \$500, may be refunded to the licensee or the licensee's estate if (1) the business ceases to operate because of destructive damage; (2) the licensee dies; (3) the business ceases to be lawful for one reason other than a license revocation; or (4) the licensee ceases to carry on the licensed business under the license.

Once a refund is approved and issued, the County Board will not reinstate a license within the current license year unless the licensee or successor successfully completes the full license application process and remits the full amount of the annual license fee(s).

**LICENSE NOT TRANSFERABLE** The County Board will not authorize the transfer of any granted liquor license.

**INSURANCE** Prior to the issuance of a liquor license, the applicant shall file with the County Auditor-Treasurer a certificate for a liquor liability insurance policy in accordance with the limits outlined in Minn. Stats. §340A.409. Licenses for on and off sale 3.2 percent malt liquor are exempt from this requirement if an *Affidavit As To Sales 3.2 Malt Liquor* is completed and on file with the County Auditor-Treasurer.

**HOURS** As per Minn. Stats. §340A.504, on-sales are prohibited between 1:00am and 8:00am on the days of Monday through Saturday. It is unlawful for any person to enter or remain on the licensed premises after 1:30am except the licensee, or any employee of the licensee who is working and preparing to open or close the licenses premises, and any law enforcement person.

A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00am on Sundays and 1:00am on Mondays.

Intoxicating liquor off-sale hours shall follow Minn. Stats. §340A.504 Subd.4.

**GENERAL** Every licensee is responsible for the conduct in the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee. Any licensee shall allow any law enforcement official to enter the premises for the purpose of investigating possible violations of this Ordinance, and Minnesota Statutes.

Additionally, licensees for on-sale liquor sales shall ensure:

- ✓ They comply with the Minnesota Clean Indoor Air Act;
- ✓ That no liquor shall be consumed by any person in the parking area adjacent to any licensed premises at any time;
- ✓ No lewd conduct of public nudity, strip tease act, exotic dancing, or any similar conduct occurs on the premises;
- ✓ Except in the case of a brewer's license, the sale of liquor is incidental and subordinate to restaurant sales.

**OFFENSES INVOLVING UNDERAGE PERSONS** In accordance with Minn. Stats. §340A.503, it is unlawful to permit any person under the age of 21 years to drink alcoholic beverages on licensed premises. It is unlawful for any person to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age. It is unlawful for a person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages for the purpose of purchasing or having served or delivered any alcoholic beverage.

Proof of age for purchasing or consuming alcoholic beverages may be established only by one of the criteria established in Minn. Stats. §340A.503 Subd.6, which includes (1) a valid driver's license or identification card issued by a state or a province of Canada; (2) a valid military identification card issued by the United States Department of Defense; and (3) a valid passport.

A person 18, 19, or 20 years old may enter a licensed establishment to: (1) perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by Minn. Stats. §340A.412 Subd.10; (2) consume meals; (3) attend social functions that are held in a portion of the establishment where liquor is not sold; and (4) assist with compliance checks conducted by law enforcement or other authorized community organizations.

**ENFORCEMENT AND PENALTIES** Violations of the prescriptions established in this Ordinance may be enforced through criminal and/or civil sanctions. Violation of the provision of this Ordinance and the statutes incorporated hereunder shall be a misdemeanor, unless such violation is made a gross misdemeanor or felony by Minn. Stats. §340A.702 and 340A.703. Nothing in this Ordinance limits Cass County in seeking criminal prosecution under Minnesota Statutes for violation of other statutes, rules, or ordinances.

The administrative penalty provisions of this Ordinance shall be enforced pursuant to the procedures identified herein.

**First Violation** Any licensee found to have violated this Ordinance shall be required to complete approved server education training. The training shall be completed by the licensee and all employees that will be serving any alcoholic beverage on the licensed premises within 30 days of conviction. The licensee shall certify training attendance to the Cass County Auditor-Treasurer upon completion.

**Second Violation** Any licensee found to have violated this Ordinance two (2) times within a twenty-four (24) month period will be subject to a five hundred dollar (\$500.00) administrative penalty.

**Third Violation** Any licensee found to have violated this Ordinance three (3) times within a twenty-four (24) month period will be subject to a seven hundred and fifty dollar (\$750.00) administrative penalty.

**Fourth Violation** Any licensee found to have violated this Ordinance four (4) times within a twenty-four (24) month period will be subject to a one thousand (\$1,000.00) administrative penalty and a three (3) day suspension of the liquor license shall be imposed.

**Fifth Violation** Any licensee found to have violated this Ordinance five (5) times within a twenty-four (24) month period shall have their liquor license revoked.

The twenty-four (24) month period shall begin upon the first violation on the date of conviction. Failure to pay an administrative penalty imposed for violation within 30 days of notice will result in licensee suspension until such time that the penalty is paid. Upon license revocation for a fifth violation the licensee may make application for a new licensee for the next license year. The Cass County Board of Commissioners reserves the right to deny license issuance based on this Ordinance, state statutes, and public interest.

**APPEAL** A licensee may appeal the imposition of an administrative penalty, license suspension, or license revocation within seven (7) days of receiving notice of the action. The appeal shall be submitted in writing to the Cass County Administrator, P.O. Box 3000, 303 Minnesota Avenue West, Walker, Minnesota, 56484. The appeal shall be heard by a committee of the Cass County Board of Commissioners within fifteen (15) days of receipt by the Cass County Administrator upon written notice to the licensee of the date, time, and place of the hearing. No license suspension or revocation shall take effect until the time for the appeal has expired, or if an appeal is brought, until the committee of the Cass County Board of Commissioners has rendered a decision.

**SEVERABILITY** Should any section or provision of this Ordinance be declared invalid or unconstitutional, such funding shall not affect the validity of the Ordinance as whole, or any part thereof, other than that part found to be invalid or unconstitutional.

Effective Date: This Ordinance shall be effective on **July 1, 2018**

Passed by the Cass County Board of Commissioners this **19<sup>th</sup>** day of **June 2018**.

Cass County, Minnesota

By: 

Chair – Cass County Board of Commissioners

Attest: 

Joshua D. Stevenson, Cass County Administrator