



MAYOR AND COUNCIL COMMUNICATION

DATE: 6/04/2013

CONSENT

ITEM #: 6

AGENDA ITEM: Adopt Liquor License Code Amendment

SUBMITTED BY: Adam Bell, City Clerk

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Beckie Gumatz, Program Assistant

SUGGESTED ORDER OF BUSINESS:

- Introduction of Item..... Staff
- Report/Presentation Staff
- Questions from Council to Staff..... Mayor Facilitates
- Public Input, if Appropriate..... Mayor Facilitates
- Call for Motion..... Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion Mayor Facilitates

SUMMARY AND ACTION REQUESTED:

Staff respectfully recommends the City Council adopt Ordinance 08-081, thereby amending the Lake Elmo Alcoholic Beverages Chapter of the Lake Elmo City Code in order to bring the current intoxicating liquor license regulations in line with current and historical city practices and existing facts. The specific recommendation is to repeal the proximity restrictions currently found in the code. **As part of the Consent Agenda, no specific motion is required.**

If removed from the *Consent Agenda*, the recommended motion to act on this request is as follows:

“Move to approve Ordinance 08-081, amending the Lake Elmo Alcoholic Beverages Code [as presented/modified therein].

BACKGROUND AND STAFF REPORT:

There are currently five city approved liquor licenses that have been issued and annually renewed in the Old Village area. Lake Elmo’s current code §111.22(c) prohibits regular intoxicating liquor licenses from being issued to a business within 600 feet from a “school, church, playground, or public park.” All five of the currently issued licenses downtown are within 600 feet of at least one of these places. Most of the liquor retail establishments have been in business for many years.

To date, Staff has not determined specifically when this language was added to the City Code. Minnesota statute §340A.509 authorizes cities to impose additional restrictions on retail licenses, and it is common for municipalities to have some type of proximity restriction language in the city code. However, each municipality is unique and has different needs.

The current businesses that possess intoxicating liquor licenses in violation of the Lake Elmo proximity restrictions are:

- Lake Elmo Inn
- Lake Elmo Inn Event Center
- Twin Point Tavern
- Lake Elmo Wine Company
- Village Wine and Spirits

Current city code § 111.20(A)(6) still provides that no license shall be issued, transferred, or renewed if the application thereof, to the satisfaction of the City Council, that issuance, transfer, or renewal would not be in the public interest. Minnesota law affords municipalities wide discretion in the issuance of liquor licenses. Minnesota courts do not consider liquor licenses, or the renewal thereof, as a right. The remaining city code language explicitly safeguards the Council's ability to deny any new or renewal application that it sees as problematic in any area of the city or for any reason.

If this recommended action, or another proposed resolution, is not approved, all five of the current downtown liquor licenses will be in violation of city code and should not be renewed without Council and staff disregarding the regulations. This proposed amendment brings the city code in line with the past practices of the city's liquor license issuance and the current existing business.

RECOMMENDATION:

*Based on the foregoing information, Staff respectfully recommends the City Council adopt Ordinance 08-081, thereby amending the Lake Elmo Alcoholic Beverages Chapter of the Lake Elmo City Code in order to bring the current intoxicating liquor license regulations in line with current and historical city practices and existing facts. The specific recommendation is to repeal the proximity restrictions currently found in the code. **As part of the Consent Agenda, no specific motion is required.***

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ATTACHMENT(S):

1. Ordinance 08-081
2. Village Liquor License Map