

CITY OF LAKE ELMO
WASHINGTON, COUNTY
SUMMARY OF ORDINANCE 80 61
RELATING TO LIQUOR WITHIN THE CITY OF LAKE ELMO

On December 17, 1991, the Lake Elmo City Council adopted Ordinance 80-61 relating to Liquor within the City of Lake Elmo.

On December 17, 1991, the Lake Elmo City Council received a summary of Ordinance 80-61 and by 4 affirmative votes, approved the publication of a summary of this ordinance, to wit:

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTIONS OF THE LAKE ELMO MUNICIPAL CODE ARE HEREBY AMENDED:

Section 1201.010 (B)	Defines "Sale" or "Sell"
Section 1201.010 (H)	Defines "Commissioner"
Section 1201.010 (I)	Defines "Wine"
Section 1201.020	Requires License to sell liquor
Section 1201.030	Defines 6 kinds of licenses
Section 1201.030 (A)-(C)	Defines On-Sale License, On-Sale Wine License and Temporary On-Sale Licenses.
Section 1201.040	Application of License
Section 1201.040 (A)-(D)	Defines Form of license, defines requirement of bond; defines financial responsibility; defines approval of security.
Section 1201.050	Requires License Fees
Section 1201.050 (A)	Sets fees for Licenses
Section 1201.050 (B)	Allows for waiver of license fee
Section 1201.060	Granting of License
Section 1201.070	Defines persons ineligible for license.
Section 1201.080	Defines places ineligible for license.
Section 1201.080 (A)	General prohibition
Section 1201.080 (B)	Delinquent Taxes
Section 1201.090	Conditions of License
Section 1201.100	Restrictions on Purchasing/Consumption
Section 1202.020 (A)	Prohibits the sale of nonintoxicating liquor without a license.

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTIONS ARE HEREBY ADDED TO THE LAKE ELMO MUNICIPAL CODE:

Section 1201.030 (D-F)	Defines Off-Sale, Special Club and Special Sunday Sales Licenses
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Section 1201.050 (C-E) Requires payment for license, allows for a pro rata fee, defines provision for refunds.

Section 1201.060 (A-C) Requires a preliminary investigation for license application, provides for a hearing process for license applicant, provides the terms for license transfer.

Section 1201.080 (C) Defines the distance from schools and churches for liquor license

Section 1201.090 (A-E) General Conditions of license, Insurance Requirements, Licensee Responsibilities, Inspections

Section 1201.100 (A-B) Restricts liquor in unlicensed places, restricts consumption of liquor in public places.

Section 1201.110 Sets forth the conditions for a license suspension and revocation.

Section 1201.120 A (1-3) Sets forth the hours for on-sale liquor on Weekdays, Sundays, and Holidays.

Section 1201.120 B (1-6) Restricts the hours and days of the sale of off-sale intoxicating liquor.

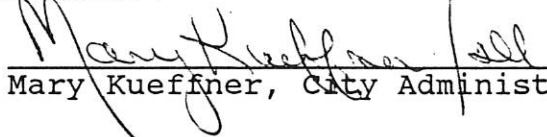
Section 1202.010 Defines the sale or selling of non-intoxicating malt liquor

Section 1202.020 A Prohibits the sale of non-intoxicating malt liquor without a license.

A complete copy of Ordinance 80-61 Regulation of Liquor within the City of Lake Elmo is on file in the office of the city administrator and can be viewed by the public during normal business hours.

Signed 
David Johnson, Mayor

Attest:


Mary Kueffner, City Administrator

STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF LAKE ELMO

ORDINANCE NO. 80-61

AN ORDINANCE RELATING TO THE REGULATION OF LIQUOR WITHIN THE CITY OF LAKE ELMO.

THE LAKE ELMO CITY COUNCIL ORDAINS THAT SECTIONS 1201.010(B), 1201.010(H), 1201.010(I), 1201.020, 1201.030, 1201.030(A) THRU (C), 1201.040, 1201.040(A) THRU (D), 1201.050, 1201.050(A), 1201.050(B), 1201.060, 1201.070, 1201.080, 1201.080(A), 1201.080(B), 1201.090, 1201.100 and 1202.020(A) OF THE LAKE ELMO MUNICIPAL CODE ARE HEREBY AMENDED; AND SECTIONS 1201.030(D) THRU (F), 1201.050(C) THRU (E), 1201.060(A) THRU (C), 1201.080(C), 1201.090(A) THRU (E), 1201.100(A), 1201.100(B), 1201.110, 1201.120 AND ITS SUBDIVISIONS, 1202.010(L), AND 1202.020(A) ARE HEREBY ADDED TO THE LAKE ELMO MUNICIPAL CODE TO READ AS FOLLOWS:

1201.010(B). "Sale" or "Sell" means to directly or indirectly, by any pretense or by any device, sell, barter, keep for sale or otherwise dispose of alcoholic beverages as part of a commercial transaction.

1201.010(H). "Commissioner" means the Commissioner of Public Safety for the State of Minnesota.

1201.010(I). "Wine" means the beverage made from condensed grape must or from other agricultural products other than sound, ripe, grapes; imitation wine; compounds sold as wine; vermouth; cider; perry and sake; in each instance containing not less than 7% nor more than 24% alcohol by volume.

1201.020. License Required. Except as hereinafter provided, no persons shall sell intoxicating liquor without first obtaining a license from the City of Lake Elmo.

1201.030. Kinds of Licenses. Intoxicating Liquor Licenses shall be of six kinds:

- A. On-Sale Licenses. On-sale licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores and shall permit "on-sale" of intoxicating liquor only.
- B. On-Sale Wine Licenses. On-sale Wine Licenses shall be issued only to restaurants having facilities for seating at least 25 guests at one time and shall permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.

- C. Temporary On-Sale Licenses. Temporary On-Sale Licenses shall be issued only to clubs or charitable, religious or other nonprofit organizations in existence for at least three years and shall authorize the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee and subject to the restrictions imposed by MS Chapter 340A.
- D. Off-Sale Licenses. Off-Sale Licenses shall be issued only to exclusive liquor stores and shall permit "off-sale" of intoxicating liquor only.
- E. Special Club Licenses. Special Club Licenses shall be issued to incorporated clubs or congressional chartered veterans organizations which have been in existence for at least three years.
- F. Special Licenses for Sunday Sales. Sunday On-Sale Licenses shall be issued only to a hotel, restaurant, or club which has facilities for serving at least thirty (30) guests at one time and which has a regular on-sale license.

1201.040. Application for License.

- A. Form. Every application for a license to sell liquor shall include applicant's name, age, representations as to character (with such references as the Council may require), citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long 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. The application shall be in the form prescribed by the Commissioner and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.
- B. Bond. Each application for an "on-sale", "on-sale wine" or "off-sale" license shall be accompanied by a surety bond in the amount of \$1000 or, in lieu thereof, cash or United States government bonds of equivalent value.
- C. Financial Responsibility. No liquor license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by MS 340A.801. Such proof shall be filed with the Commissioner. Any liability insurance policy filed as proof of financial

responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409.

- D. Approval of Security. Security Bonds or evidence of financial responsibility 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 evidence of required bonds or insurance coverage shall be cause for revocation of the liquor license.

1201.050. License Fees.

- A. Fees. The annual fee for liquor licenses shall be as follows:

On-Sale:	\$1,500.00
On-Sale Wine	\$ 300.00
Temporary On-Sale:	\$ 25.00
Off-Sale:	\$ 200.00
Special Club:	\$ 100.00
Sunday Sales:	\$ 200.00

- B. Waiver of Fee. The City Council can, at its discretion, waive the fee for a Temporary On-Sale License.
- C. Payment. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee required pursuant to 1201.060(A). 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.
- D. 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 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.
- E. Refund. No refund of any license fee shall be made except as herein provided.

1201.060. Granting of License.

- A. Preliminary Investigation. On an initial application for an on-sale license and on application for transfer of an existing on-sale license, the applicant shall pay with his application an investigation fee of \$250.00 and the City shall construct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the Commissioner 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 Commissioner 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. If the investigation is required beyond state boundaries, the applicant shall pay for the actual cost of such investigation but in no event an amount in excess of \$10,000. The estimated amount of such investigation shall be paid at the time of application. The remaining amount due for investigative costs shall be paid prior to final review of the license application by the City Council. The full amount of the license investigation fee is payable irregardless of whether the liquor license is granted.

- B. Hearing and Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background investigation. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner.
- C. Person and Premises License; 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 license is deemed a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license.

1201.070. Persons ineligible for License. No license shall be granted to any person made ineligible for such a license by state law.

1201.080. Places Ineligible for License.

- A. General Prohibition. No license shall be issued for any place or any business ineligible for such a license under state law.

- B. Delinquent Taxes. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.
- C. Distance from School or Church. No license shall be granted within 600 feet of any school, church, playground or public park except for those temporary licenses granted pursuant to Section 1201.030(C).

1201.090. Conditions of License.

- A. 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.
- B. Insurance. Every licensee shall comply with the financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.
- C. Licensee Responsibility. Every licensee is responsible for the conduct in the licensed establishment, and any sale of alcohol beverages by any employee authorized to sell such beverages in the establishment is the act of the licensee for purposes of license suspension or revocation.
- D. 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.
- E. Display during Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

1201.100. Restrictions on Purchasing\Consumption.

- A. Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor "on-sale" or a permit from the Commissioner and no person shall consume liquor in any such place.
- B. Consumption in Public Places. No person shall consume liquor in a public park, or other public place, except for those temporary licenses granted pursuant to Section 1201.030(C). of this Ordinance.

1201.110. Suspension and Revocation. The Council shall either suspend for up to sixty (60) days or revoke any liquor license, or impose a civil fine not to exceed \$2,000 for each violation upon the finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcohol beverages. Except in case of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.70 of the Administrative Procedure Act.

Lapse of required Dram Shop Insurance or Bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of 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 insurance 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 ten (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.

1201.120. Hours of Sale.

A. Intoxicating Liquor On-Sale. No sale of intoxicating liquor for consumption on the licensed premises may be made by an on-sale licensee:

1. Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
2. After 1:00 a.m. on Sundays except that a restaurant, club or hotel with a seating capacity for at least 30 persons 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 12 noon on Sunday and 1:00 a.m. on Mondays;
3. Between 8:00 p.m. on December 24 and 8:00 a.m. on December 25, except that a restaurant, club or hotel with a seating capacity for at least 30 persons 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 12 noon on Sundays and 1:00 a.m. on Mondays.

B. Intoxicating Liquor Off-Sale. No sale of intoxicating liquor may be made by an off-sale licensee;

1. On Sundays;
2. Before 8:00 a.m. on Monday through Saturday;
3. After 10:00 p.m. on Monday through Saturday;
4. On Thanksgiving Day;
5. On Christmas Day, December 25th; or
6. After 8:00 p.m. on Christmas Eve, December 24th.

1202.010(L). "Sale or "Sell" means to directly or indirectly by any pretense or by any device, sell, barter, keep for sale or otherwise dispose of alcoholic beverages as part of a commercial transaction.

1202.020(A). Except as hereinafter provided, no person shall sell nonintoxicating malt liquor without first obtaining a license from the City of Lake Elmo. Licenses shall be of three kinds: (1) "on-sale"; (2) "off-sale"; and (3) temporary "on-sale".

The Lake Elmo City Council ordains that Section 1201.070(A) through (I) of the Lake Elmo City Code are hereby repealed.

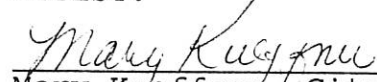
Effective Date. This ordinance shall be effective the day following publication of the ordinance summary which was approved by four affirmative votes on December 17, 1991.

Adoption Date. Passed by the City Council of the City of Lake Elmo the 17th day of December, 1991.



David Johnson, Mayor

ATTEST:


Mary Kueffner, City Administrator

Publication Date. Published on the 15th of JAN., 1992.

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