

ORDINANCE 02-2016

CITY OF AFTON  
WASHINGTON COUNTY, MINNESOTA

**AN ORDINANCE AMENDING SECTIONS 4-36 AND 4-38, RELATING TO THE  
NUMBER OF LIQUOR LICENSES AND KINDS OF LIQUOR LICENSES WHICH MAY BE ISSUED IN  
THE CITY OF AFTON AS REGULATED BY CHAPTER 4, ALCOHOL**

**BE IT ORDAINED** by the City Council of the City of Afton that the Afton Code of Ordinances be amended as follows.

DELETE the strike-through language and ADD the bold, underlined language as shown below:

**Section 4-36. Number of Licenses Which May Be Issued.**

State law establishes the number of liquor licenses that a city may issue. **The maximum number of on-sale liquor licenses that may be issued is five (5), for statutory cities of 2,500 to 5,000 population, under the provisions of M.S. § 340A.413, subd. 1, as it may be amended from time to time.** ~~However, the number of licenses which may be granted under this ordinance is limited to the number of license which were issued as of the effective date of this ordinance, even if a larger number of licenses are authorized by law or election. The City Council in its sound discretion may provide by ordinance that a larger number of **On-sale liquor** licenses may be issued up to the number of licenses authorized by Minnesota Statutes Chapter 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M. S. § 340A.413, subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the City Council by ordinance determines that any or all of the licenses may be issued. The City Council is not required to issue the full number of licenses that it has available.~~

**Section 4-38. Kinds of Liquor Licenses.**

- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M. S. § 340A.101, as it may be amended from time to time, and this ordinance: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and ALCOHOLIC BEVERAGES CD4:5 exclusive liquor stores Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the City Council under Section 4-39 of this ordinance shall not exceed the amounts provided for in M. S. § 340A.408, subd. 2(b), as it may be amended from time to time. The City Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M. S. § 340A.404, subd. 4b, as it may be amended from time to time. The City Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

**1. Food sales.**

- a. **No on-sale intoxicating liquor license shall be issued to an establishment unless at least 50 percent of the gross food and beverage receipts of the establishment are annually attributable to the sale of food. This requirement shall be regulated as follows:**

**(a) Each on-sale intoxicating licensee shall have the continuing obligation to have at least 50 percent of gross food and beverage receipts from the establishment during the preceding business year attributable to the sale of food.**

ORDINANCE 02-2016

(b) In the case of a new establishment, the applicant must make a bonafide estimation that at least 50 percent of the gross receipts from the sale of food and beverages of the establishment during its first year of business will be attributable to the sale of food.

(c) establishment. Financial records for the food and beverage portion must be maintained separately from the records of the remainder of the establishment.

(d) For the purpose of this section, "sale of food" shall include gross receipts attributable to the sale of food items, soft-drinks and nonalcoholic beverages. It shall not include any portion of gross receipts attributable to the nonalcoholic components of plain or mixed alcoholic beverages, such as ice, soft-drink mixes or other mixes.

(e) The city may require the production of such documents or information, including but not limited to books, records, audited financial statements or pro forma financial statements, sales reports and analysis as it deems necessary or convenient to enforce these provisions. The city may also obtain its own audit or review of such documents or information, and all licensees shall cooperate with such a review, including prompt production of requested records.

(f) Establishments found to fall below the 50 percent standard of annual food sales from the preceding business year shall be required to meet with the city clerk, prior to license renewal, and reassess their business operations and prepare and implement a plan of operations reasonably directed to achieve the 50 percent food sales requirement in the subsequent year. The plan will be subject to the approval of the city administrator. Public safety compliance confirmation will be reviewed by the city clerk and the director of public safety.

(g) Establishments found to have less than 40 percent of annual gross food receipts may be placed on probation status. The probationary status review will be conducted by the city council and the council may require the establishment be placed on probationary status for one year and require the licensee to prepare any plans and reports, participate in any required meetings and take other action that the city may require to increase the sale of food. The licensee shall submit the plans and periodic reports to the city clerk.

(h) If, after the initial probationary period, food sales are still less than 40 percent and the establishment is not in compliance with applicable statute, regulation or ordinance relating to alcoholic beverage, the city council may:

- (1) Extend the probation period up to 12 additional months;
- (2) Limit alcohol service hours by revoking an establishment's 2:00 a.m. liquor license (if applicable);
- (3) Reduce the hours of service by one hour for the period of one year; or
- (4) Deem the establishment ineligible to sell intoxicating beverages.

(i) Denial of an intoxicating liquor license shall not prohibit the license holder from applying to obtain a license to sell 3.2 percent malt beverages.

(j) Food must be available to guests up until two hours before discontinuing alcohol service.

This change will take effect upon publication of this ordinance.

PASSED BY THE CITY OF AFTON CITY COUNCIL THIS 16th DAY OF FEBRUARY, 2016.

SIGNED:

  
Richard Bend, Mayor

ORDINANCE 02-2016

ATTEST:



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Ronald J. Moorse, City Administrator

Motion:	Palmquist
Second:	Ross
Palmquist:	Aye
Richter:	Nay
Ross:	Aye
Nelson:	Absent
Bend:	Aye

ENTERED:  
3-13-16