

## ROSEAU COUNTY ORDINANCE NO. 34

ROSEAU COUNTY ORDINANCE REQUIRING COMPLIANCE CHECKS, SETTING FORTH ADMINISTRATIVE PENALTIES TO SPECIFICALLY IDENTIFY THE SANCTIONS TO BE TAKEN AGAINST LICENSEES WHO FAIL TO COMPLY WITH THE STATUTES RELATING TO ALCOHOLIC BEVERAGES, AND TO PROVIDE CIVIL PENALTIES TO LICENSEES' EMPLOYEES WHO MAKE ILLEGAL SALES OF ALCOHOLIC BEVERAGES.

### THE COUNTY OF ROSEAU DOES ORDAIN:

#### Subdivision 1: Compliance Checks

##### A. Responsibility of Licensee, Right to Search, and Compliance Checks:

Every licensee shall be responsible for the conduct of his, her or its place of business and the conditions of sobriety and orderliness in it, as required by Minnesota Statutes Section 340A.501. The act of any employee of the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.

**B. Requirements.** The issuing authority or the Roseau County Sheriff's Department or both shall:

(1) Have, as a condition of the license, the right to enter, inspect, and search the licensed premises without a search and seizure warrant during the hours in which the licensed premises are open for the sale of alcoholic beverages and continuing through the time period when patrons and employees are present on the premises; and

(2) Conduct random compliance checks each year, and issue citations to any licensee and/or employee violating the provisions of their license or any relevant provisions of Minnesota Statutes Section 340A.

#### Subdivision 2: Administrative Penalties

##### A. Administrative Offense Defined:

(1) An administrative offense is a violation of a provision of this code and/or Minnesota Statutes Chapter 340A and is subject to the administrative penalty set forth in the schedule of offenses and penalties set forth in paragraph J of the subdivision.

(2) At any time prior to the payment of the administrative penalty as provided for hereafter, the individual may withdraw from administrative participation procedures in which event the County may bring criminal charges in accordance with law. Likewise, the County in its discretion, may choose not to initiate an administrative offense procedure and may bring criminal

charges in the first instance.

(3) Nothing in this section shall preclude the County from bringing both administrative penalties and criminal charges for those in violation of this code and/or Minnesota Statutes Chapter 340A.

**B. Notice:**

Any officer of the Roseau County Sheriff's Department shall, upon determining that there has been a violation, notify the violator. This notice shall set forth the nature, date and time of the violation and amount of the scheduled penalty and/or license suspension and/or revocation.

**C. Payment:**

Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation or may request a hearing in writing as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**D. Hearing:**

(1) Any person contesting an administrative offense pursuant to this chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

(2) Upon a finding by the hearing officer that licensee or permit holder or employee or representative of the licensee or permit holder has violated a provision of this ordinance and/or Minnesota Statutes Chapter 340A; the hearing officer shall provide written documentation of said finding to the City Council.

(3) Appointment of Hearing Officer. The Roseau County Board shall appoint a hearing officer to conduct such informal hearings.

**E. Penalties for Non-compliance:**

In addition to any criminal penalties which may be imposed by a Court of Law, the County Board may suspend the license for up to sixty (60) days and revoke a license and/or may impose a civil fine on a licensee not to exceed Two Thousand and no/100 (\$2,000.00) Dollars for each

violation on a finding that the license holder or its employee has failed to comply with the statute, rule, or ordinance relating to alcoholic beverages, non-intoxicating malt liquor or wine.

**F. License Suspension or Revocation:**

No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a public hearing before the County Board, a committee of the County Board, or a hearing under the Administrative Procedures Act, in accordance with Minnesota Statutes 340A.415 as may be determined by the Board in action calling the hearing. Such hearing shall be called by the Board upon written notice to the licensee served in person or by certified mail not less than fifteen (15) nor more than thirty (30) days prior to the hearing date, stating the time, place and purpose thereof.

**G. Appeal Process:**

Any person aggrieved by a final decision following the public hearing is entitled to judicial review of the decision pursuant to the provisions of the Administrative Procedures Act, as set forth in Minnesota Statutes Chapter 14.

**H. Failure to Pay:**

(1) In the event a party who is charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the County for the same violation.

(2) In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the County will seek to collect the costs of the administrative offense procedures as part of the subsequent criminal sentence in the event the party is charged and is convicted of the criminal violation.

**I. Disposition of Penalties:**

All penalties collected pursuant to this Chapter shall be paid to the Roseau County Treasurer and shall be used to fund the cost of development and operation of related programs.

**J. Minimum Penalties:**

In no event shall a penalty be less than the following per calendar year:

<u>Administrative Offense</u>	<u>1<sup>st</sup> Event</u>	<u>2<sup>nd</sup> Event</u>	<u>3<sup>rd</sup> Event</u>	<u>4<sup>th</sup> Event</u>
1. Commission of a felony related to the licensed activity	Revocation	N/A	N/A	N/A
2. Sale of alcoholic beverages while license is under suspension	Revocation	N/A	N/A	N/A
3. Sale/purchase of alcoholic beverages to/by under age person	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
4. Sale of alcoholic beverages to obviously intoxicated person	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18 day suspension	Revocation
5. After hours sale of alcoholic beverages	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
6. After hours display or consumption of alcoholic beverages	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
7. Refusal to allow police admission to inspect premises	\$250.00	\$500.00 & 3-day suspension	Revocation	N/A
8. Illegal gambling on premises	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation
9. Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages	\$250.00	\$500.00 & 3-day suspension	\$750.00 & 18-day suspension	Revocation

A day shall be defined as a business day.

K. The penalties assessed shall be in accordance with the calendar year, commencing January 1<sup>st</sup> of each year and ending December 31<sup>st</sup> of that year.

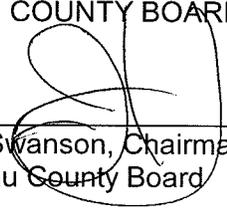
**Subdivision 3:** All ordinances and parts of ordinances inconsistent with this ordinance are hereby repealed.

**Subdivision 4: Effective Date.**

This ordinance shall be in full force and effect upon adoption pursuant to Minnesota law.

Dated this 12<sup>th</sup> day of June, 2007.

ROSEAU COUNTY BOARD OF COMMISSIONERS

By   
\_\_\_\_\_  
Jack Swanson, Chairman  
Roseau County Board

ATTEST:

By   
\_\_\_\_\_  
Teresa Klein  
Roseau County Coordinator

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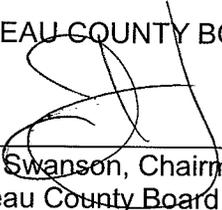
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