

THE CITY OF



OWATONNA

Mark M. Walbran
City Attorney
Phone: (507) 451-1173
Fax: (507) 451-8916

140 East Main Street
PO Box 273
Owatonna, MN 55060
Email: mwalbran@walbranfurness.law.com

TO: Mayor, City Council, and City Administrator
FROM: Mark M. Walbran, City Attorney
DATE: April 15, 2020
RE: Liquor License Refund

Purpose:

Council approve Resolution 58-20 authorizing the City refund a portion of the current on-sale liquor license fees.

Background :

Minn. Stat. § 340A.408 authorizes the City to refund a pro-rata portion of the license fees paid by the holders of on-sale liquor licenses for the sale of intoxicating or 3.2 percent malt liquor where the business ceases to be “lawful” for reasons other than revocation.

Governor Walz’s Emergency Executive Order 20-04 (EO-20-04) prohibited the sale of alcoholic beverages on-site after March 17, 2020 at bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs, and other places of other public accommodation offering alcoholic beverages for consumption on the premises.

The proposed Resolution authorizes a refund of a pro rata share of the license fees paid, calculated from 3/18/20 to 6/15/2020 or to the date the Order is rescinded, whichever date is earlier.

For example, as applied to an on-sale liquor license, if EO-20-04 were lifted on May 1st then the amount to be refunded is calculated as follows:

$$\begin{aligned} & \$3,000 \text{ (annual fee)} \div 365 \text{ days} = \$ 8.22 \text{ per day} \\ & 3/18/20-5/1/20 = 44 \text{ days} \\ & 44 \text{ days} \times \$8.22 \text{ a day} = \$361.68 \end{aligned}$$

Second example: If the EO is not lifted before June 15th, the refund would be calculated from 3/18/20 to 6/15/20 in order to determine a fixed amount of the refund and to allow for processing of the renewal licenses. If EO-20-04 is not rescinded by June 30th then the additional amount of the refund shall be calculated and refunded to the licensee.

Budget Impact:

The City would forgo the amount of the refund.

Recommendation:

The City staff recommends the City Council adopt Resolution 58-20.

RESOLUTION NO. 58-20

RESOLUTION AUTHORIZING REFUND OF
PRO RATA SHARE OF LIQUOR LICENSE FEES

WHEREAS, pursuant to the Governor's Emergency Executive Order 20-04, effective on March 17, 2020, prohibiting bars, taverns, brew pubs, breweries, microbreweries, distilleries, wineries, tasting rooms, clubs and other places of public accommodation were prohibited from offering alcoholic beverages for on-premises consumption;

WHEREAS, Minn. Stat. § 340A.408, subd. 5, authorizes the refund of a pro rata share if the holder of a liquor license ceases to do business for reasons other than license revocation;

WHEREAS, the annual fees for the sale of liquor which run from July 1st to June 30th of each year are set forth in Appendix A, (A)(3) of the City Ordinance Code, a copy of which is hereto attached as Exhibit A; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Owatonna, Minnesota, as follows:

1. The City Council hereby authorizes the City Administrator to refund to the holders of liquor licenses issued pursuant to City Ordinance Code § 113.054 a pro rata share of the annual license fee paid. The refund shall be calculated from March 18, 2020 to June 15, 2020 or to the date the Executive Order is rescinded, whichever date occurs first. In the event the Executive Order is not rescinded before June 15, 2020 the refund shall be calculated to and from March 18, 2020 to June 15, 2020 in order to determine a fixed amount to allow for the payment of the refund and processing of the renewal licenses by June 30, 2020. In the event the Executive Order is not rescinded by June 30, 2020 then the additional amount shall be calculated and refunded to the licensee. The refund amount shall be paid on the earliest date practicable after the amount is determined pursuant to this Resolution.

2. The City Administrator and staff are authorized and directed to do all things necessary to take such action, prepare, sign and do all things as may be necessary to execute such refunds.

3. This Resolution shall take effect and continue and remain in effect from and after the date of its passage, approval and adoption.

Passed and adopted this _____ day of April 2020, with the following vote:

Aye ____; No ____; Absent ____.

Approved and signed this ____ day of April 2020.

ATTEST:

Thomas A. Kuntz, Mayor

Kris M. Busse, City Administrator/City Clerk

(3) *June 30 expirations.* The following licenses shall expire on June 30 of each year:

Code Section	Type of License	Conditions & Terms	Amount	
113.054	Intoxicating liquor "on-sale"	Per year	\$3,000	
113.117	Intoxicating liquor, "on-sale" club	Per year	Membership	Annual
			0 - 200	\$300
			201 - 500	\$500
			501 - 1,000	\$650
			1,001 - 2,000	\$800
			2,001 - 4,000	\$1,000
			4,001 & over	\$2,000
113.004	3.2% malt liquor, "on-sale"	Per year	\$100	
	Wine license, on-sale	Per year	\$150	
113.065	Brew pub on-sale license	Yearly	\$300 ¹	
	Brewer taproom on-sale license	Yearly	\$300 ⁵	