

ORDINANCE NO. 1425

An Ordinance to Amend and Re-enact
Sections 4-2-1, 4-2-2(b)(2), 4-2-4(a)(11), 4-2-7, and 4-2-9 of the Mandan Code of Ordinances
Relating to Alcoholic Beverages

Be it Ordained by the Board of City Commissioners as follows:

Sec. 4-2-1. – License required.

- (a) It is unlawful for any person to engage in the sale of beer, liquor or alcoholic beverages within the city without first obtaining a license therefor.
- (b) This section does not apply to public carriers engaged in interstate commerce or to a person licensed by the state as a domestic winery under N.D.C.C. section 5-01-17, a domestic distillery under N.D.C.C. section 5-01-19, or a brewer taproom under N.D.C.C. section 5-01-21 whose facility is located outside the city but who obtains a special permit under this chapter for an event to be held within the city.
- (c) This section does not apply to a nonprofit organization that sells an alcoholic beverage as part of a fundraising activity. As used in this section, the term “fundraising activity” includes an auction, raffle, or other prize contest for which consideration is given. If the alcoholic beverage is sold as part of a fundraising event, the sale may not be for consumption at that event.

Sec. 4-2-2. – Qualifications.

(b) Prohibited.

- (2) No license shall be issued to any person engaged in business as the representative or agent of another, and a license will be issued only to the owner of the business to be conducted at the location for which the license is sought. Except in the case of an applicant for a special class B or class C liquor establishment license, no applicant shall directly or indirectly, own, control, or have any interest whatsoever in more than two liquor establishments which are licensed to sell beer or liquor within the city.

Sec. 4-2-4. – Classification of alcoholic beverage licenses.

- (a) The city may issue an unlimited number of alcoholic beverage licenses of any class. There shall be nine classes of alcoholic beverage licenses, namely:

* * *

(11) *Class H.* A license to sell catered retail beer, wine, and liquor on-premises only, may be issued subject to the following conditions:

- a. The licensee shall not be permitted to provide on-premises alcoholic beverages at a site owned, leased, or operated by the licensee.
- b. The licensee may operate a "cash" bar at up to 20 catered events per license year. For the purposes of this section, a cash bar is a bar in which alcoholic beverages are sold to individual customers at the catered event.
- c. The licensee must obtain and keep in effect off-premises alcohol liability insurance and provide the City proof of insurance with its license application.
- d. Gross sales of alcoholic beverages may not be greater than 40 percent of the total gross sales of food and alcoholic beverages. All Class H license holders shall file with the application for license renewal a sworn statement executed by the licensee and a certified public accountant certifying that gross food and liquor sales for the previous calendar year meet the requirements of this section. The board may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the Commission deems necessary.
- e. A licensee shall obtain an event permit under section 4-2-17 for each catered event. An application for an event permit must indicate whether or not the event will have a cash bar.

(b) This section shall not be construed to require the city to issue licenses for the sale of alcoholic beverages and the board in its discretion, should it deem that a significant number of such licenses have been issued, may refuse to issue any license even though authorized under this section.

Sec. 4-2-7. – Class DY license.

A class DY license shall authorize the licensee to produce distilled spirits, and to sell said distilled spirits at a location with the city, subject to the following restrictions and conditions:

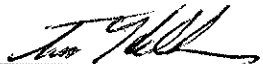
- (1) A class DY license may be issued only to a domestic distillery owner or operator who obtains a domestic distillery license under N.D.C.C. section 5-01-19 allowing for the production of spirits.
- (2) A class DY license will authorize the licensee to sell, on the domestic distillery premises, spirits produced by that domestic distillery on the premises and spirits produced by other North Dakota licensed domestic distilleries, in the amounts listed by state and federal law.
- (3) The class DY license shall be governed by all the provisions of state law and of this chapter generally applicable to all license classifications.
- (4) A Class DY licensee who is licensed by the state as a domestic distillery under N.D.C.C. section 5-01-19 and who obtains a special event permit under N.D.C.C. section 5-01-19

may dispense complimentary samples of its spirits and sell its spirits by the glass or in closed containers, as allowed by the State Tax Commissioner.

- (5) A Class DY licensee may obtain a retail alcohol license allowing the on-premises sales of alcoholic beverages at a restaurant owned by the domestic distillery and located on property contiguous to the distillery.
- (6) The fee for a class DY license shall be as determined by resolution of the board of city commissioners.

Sec. 4-2-9. – License and issuance fees.

- (a) The license and issuance fees for a new liquor license shall be payable in advance , before the license application is considered by the board. Should a license be granted for an unexpired portion of the term of the license, said fees shall be prorated on the basis of the number of months remaining in such term, determined as of the first day of the month in which such license is issued. No license issued pursuant to the provisions of this section shall be assignable or transferable, and the failure to pay any license fee on or before the date when it is due shall automatically cancel the license.
- (b) The license and issuance fees shall be as established from time to time by resolution of the board of city commissioners.
- (c) When a license is not renewed, or is revoked, a one-time only issuance fee, in an amount determined by the board by resolution, shall be paid by any new licensee. The issuance fee shall be in addition to the annual license fee. In lieu of setting an issuance fee, the board may utilize a competitive sealed bidding process for the award of these licenses, may establish a minimum bid, or substitute any other procedure for the issuance of a license as determined by the board.
- (d) All applications for a new license or to transfer a license must be accompanied by a non-refundable application fee, in an amount determined by the board by resolution. If the board denies the issuance of a liquor license, the annal license fee and the issuance fee (if applicable) shall be refunded. The application fee is non-refundable.

By: 

Tim Helbling, President, Board of
City Commissioners

Attest:



James Neubauer, City Administrator

First Consideration: May 16, 2023

Second Consideration and Final Passage: June 6, 2023