

**ORDINANCE NO. 1040**

**AN ORDINANCE OF THE CITY OF WILLISTON AMENDING SECTIONS 3-36 RETAIL LICENSES TO BE ISSUED and 3-37 CONDITIONS AND LICENSE FEES OF THE WILLISTON CODE OF ORDINANCES REGARDING THE ISSUANCE OF A BEER AND WINE ON-SALE LICENSE.**

WHEREAS, the City of Williston has authority to regulate the use and to regulate and license the sale of alcoholic beverages pursuant to Section 40-05-01(2) of the North Dakota Century Code; and

WHEREAS, the City of Williston previously enacted various Ordinances under Chapter 3 of the Williston Code of Ordinances relating to retail licenses of alcoholic beverages and the conditions under which a license may be issued; and

WHEREAS, the current City of Williston ordinances addressing retail licenses of alcoholic beverages and the conditions under which a license may be issued do not address the issuance of a retail beer and wine on-sale license and the conditions under which such a license may be issued; and

WHEREAS, the City of Williston desires to amend its Code of Ordinances to allow for the issuance of a retail beer and wine on-sale license under certain conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA:

Section 1. That Section 3-36. Retail Licenses to Be Issued be amended, and as amended be enacted as follows:

**Sec. 3-36. Retail licenses to be issued.**

The city shall issue retail licenses pertaining to the sale of alcoholic beverages. Such retail licenses to be issued hereunder shall consist of the following kinds:

- (1) General on-sale beer.
- (2) General on-sale liquor.
- (3) General off-sale beer.
- (4) General off-sale liquor.
- (5) Club or lodge on-sale beer.
- (6) Club or lodge on-sale liquor.
- (7) Specialty restaurant on-sale beer.
- (8) Hotel or motel on-sale beer.
- (9) Hotel or motel on-sale liquor.
- (10) Specialty airport on-sale beer.
- (11) Specialty airport on-sale liquor.
- (12) Specialty supper club on-sale beer.
- (13) Specialty supper club on-sale liquor.
- (14) Specialty recreational on-sale beer.
- (15) Specialty recreational on-sale liquor.
- (16) Municipal golf course beer license.
- (17) Beer and Wine on-sale.
- (18) Reserved.
- (19) Restaurant on-sale beer and liquor.

Section 2. That Section 3-37 Conditions and license fees be amended, and as amended be enacted as follows:

**Sec. 3-37. Conditions and license fees.**

(a) The following special conditions, limitations, restrictions, and license fees shall apply to the various classes of licenses as indicated below.

(b) Except for the initial license fee for a "restaurant on-sale beer and liquor license," the yearly license fee may be prorated, depending upon the date of the license application, as follows: If the license is applied for during: January, February, or March, the full license fee shall be due; April, May or June, seventy-five (75) percent shall be due; July, August, or September, fifty (50) percent of the full license fee shall be due; and October, November, and December, twenty-five (25) percent of the full license fee shall be due.

- (1) A "general on-sale beer license" shall authorize the licensee to sell beer, at retail for consumption upon the premises of the licensee. The license fee for a "general on-sale beer license" shall be the sum of three hundred dollars (\$300.00) per year, payable at the time the application is made. Licenses issued under this subsection shall be limited in number to one (1) for each two thousand (2,000) people residing in the city as shown by the most recent federal or state census.
- (2) A "general on-sale liquor license" shall authorize the licensee to sell intoxicating liquor at retail for consumption upon the premises of the licensee. The license fee for a "general on-sale liquor license" shall be the sum of two thousand dollars (\$2,000.00) per year, payable at the time of making the application for such license as provided herein. Licenses issued under this subsection shall be limited in number to one (1) for each four thousand (4,000) people residing in the city as shown by the most recent federal or state census.
- (3) A "general off-sale beer license" shall authorize the licensee to sell beer, in the original package or container at retail as provided herein. The license fee for a "general off-sale beer license" shall be the sum of two hundred dollars (\$200.00) per year, payable at the time of making the application for such license as provided herein. Licenses issued under this subsection shall be limited in number to one (1) for each two thousand (2,000) people residing in the city as shown by the most recent federal or state census.
- (4) A "general off-sale liquor license" shall authorize the licensee to sell intoxicating liquor in the original package or container at retail as provided herein. The license fee for a "general off-sale liquor license" shall be the sum of two thousand dollars (\$2,000.00) per year, payable at the time of making the application for such license as provided herein. Licenses issued under this subsection shall be limited in number to one (1) for each three thousand (3,000) people residing in the city as shown by the most recent federal or state census.
- (5) A "club or lodge on-sale beer license" shall authorize the licensee to sell beer at retail for consumption upon the premises of the licensee primarily for the convenience of the club or lodge members. The license fee for a "club or lodge on-sale beer license" shall be the sum of three hundred dollars (\$300.00) per year, payable at the time of making the application for such license as provided herein. There shall be no restrictions as to the number of licenses granted to clubs or lodges under this chapter.
- (6) A "club or lodge on-sale liquor license" shall authorize the licensee to sell intoxicating liquor at retail for consumption upon the premises of the licensee primarily for the convenience of the club or lodge members. The license fee for a "club or lodge on-sale liquor license" shall be the sum of two thousand dollars (\$2,000.00) per year, payable at

the time of making the application for such license as provided herein. There shall be no restrictions as to the number of licenses granted to clubs or lodges under this chapter.

- (7) A "specialty restaurant beer license" shall authorize the licensee to sell tap beer, at retail for consumption upon the premises of the licensee, subject to the following specifications and restrictions:
- a. This subsection is applicable to, and the license specified hereunder is limited to, those restaurants or establishments specializing in the sale of pizza and similar specialty foods.
  - b. The food and beer license hereunder shall be for the sale of beer for consumption on the premises only and no sales for consumption off the premises shall be made.
  - c. A licensee hereunder shall sell tap beer only which shall be dispensed by the licensee or any employee from kegs or barrels and the sale of beer in bottles, cans or similar packages shall be permitted only by permission of the Williston City Commission on a case by case basis considering the circumstances of each licensed establishment.
  - d. Beer shall be consumed at tables or booths only and no beer shall be consumed at a counter or bar.
  - e. No dancing shall be permitted in an establishment holding a license hereunder.
  - f. An establishment holding a license hereunder shall provide off-street parking within the discretion of and subject to the approval of the Board of City Commissioners.
  - g. The license fee for a "specialty restaurant on-sale beer license" shall be three hundred dollars (\$300.00) per year payable at the time of making the application for the license.
  - h. Except as modified in this subsection, a licensee hereunder shall comply with and be subject to all of the remaining qualifications for licensees.
  - i. Licenses issued under this section shall not be limited by population.
  - j. It shall be unlawful for any specialty restaurant licensee under this chapter to sell, give away, or permit to be consumed therein any beer between the hours of 1:00 a.m. and 11:00 a.m.
- (8) A "hotel or motel on-sale beer license" may be issued to a hotel or motel providing at least seventy (70) rooms for transient guests. Such license shall authorize the licensee to sell beer for consumption upon the premises of the hotel or motel, provided that the room from which such sales are made must be physically attached to and be a part of said hotel or motel. The license fee for a "hotel or motel on-sale beer license" shall be the sum of three hundred dollars (\$300.00) per year, payable at the time of making the application for such license as provided herein. Temporary bars may be used in banquet rooms or other areas for special events such as conventions, dinner meetings, or similar events, all of which must be held within the confines of the hotel or motel; such areas need not be designated in the license. To qualify for the renewal of a "hotel or motel on-sale liquor license", the applicant must have maintained an average room occupancy rate of at least fifty (50) percent for the year preceding the application for renewal. There shall be no restrictions as to the number of licenses issued under this subsection.
- (9) A "hotel or motel on-sale liquor license" may be issued to a hotel or motel providing at least seventy (70) rooms for transient guests. Such license shall authorize the licensee to sell intoxicating liquor for consumption upon the premises of the hotel or motel, provided that the room from which such sales are made must be physically attached to and be a

part of said hotel or motel. The license fee for a "hotel or motel on-sale liquor license" shall be the sum of two thousand dollars (\$2,000.00) per year, payable at the time of making the application for such license as provided herein. Temporary bars may be used in banquet rooms or other areas for special events such as conventions, dinner meetings, or similar events, all of which must be held within the confines of the hotel or motel; such areas need not be designated in the license. To qualify for the renewal of a "hotel or motel on-sale liquor license," the applicant must have maintained an average room occupancy rate of at least fifty (50) percent for the year preceding the application for renewal. There shall be no restrictions as to the number of licenses issued under this subsection.

- (10) A "specialty airport on-sale beer license" may be issued to the person approved by the city commission to operate the restaurant facilities at the Sloulin Field International Airport. Such license shall authorize the licensee to sell beer, at retail for consumption upon the premises of the licensee in connection with the airport restaurant, in order to provide the service desired for patrons of and visitors to such airport. The license fee for a "specialty airport on-sale beer license" shall be the sum of three hundred dollars (\$300.00) per year, payable at the time of making the application for such license as provided herein. Any applicant for such license shall otherwise be subject to the qualification requirements for licensees contained in this chapter. No off-sale distribution of beer shall be permitted under such specialty license, and all state and municipal regulations as to hours and time of service and clientele to be served shall be observed by any such licensee. Said licensee shall be required to maintain said on-sale service of beer as provided herein during all hours in which retail dispensing of alcoholic beverages is permitted under state and local law when said restaurant facility is open for business.
- (11) A "specialty airport on-sale liquor license" may be issued to the person approved by the city commission to operate the restaurant facilities at the Sloulin Field International Airport. Such license shall authorize the licensee to sell intoxicating liquor, at retail for consumption upon the premises of the licensee in connection with the airport restaurant, in order to provide the service desired for patrons of and visitors to such airport. The license fee for a "specialty airport on-sale liquor license" shall be the sum of two thousand dollars (\$2,000.00) per year, payable at the time of making the application for such license as provided herein. Any applicant for such license shall otherwise be subject to the qualification requirements for licensees contained in chapter. No off-sale distribution of intoxicating liquor shall be permitted under such specialty license, and all state and municipal regulations as to hours and times of service and clientele to be served shall be observed by any such licensee. Said licensee shall be required to maintain said on-sale service of intoxicating liquor as provided herein during all hours in which retail dispensing of alcoholic beverages is permitted under state and local law when said restaurant facility is open for business.
- (12) A "specialty supper club on-sale beer license" shall mean a special license to sell beer on an on-sale basis only, which may be issued to steak, seafood or similarly menued supper clubs having a seating capacity of fifty (50) or more seats arranged in supper club style. Holders of a supper club license shall be permitted to use a "service type" bar for the preparation of drinks only and such drinks must be consumed at the tables. The holder of a supper club license shall have the right to provide a waiting area bar for patrons who are waiting to be seated in the dining area of the supper club. The license fee for a "specialty supper club on-sale beer license" shall be the sum of three hundred dollars (\$300.00) per year, payable in advance and at the time of making the application for such license as provided herein. Except as modified in this subsection, a licensee hereunder shall comply with and be subject to all of the remaining qualifications for licensees. Licenses issued under this subsection shall be limited in number to one (1) for each three

thousand five hundred (3,500) people in the city as shown by the most recent federal or state census.

- (13) A "specialty supper club on-sale liquor license" shall mean a special license to sell intoxicating liquor on an on-sale basis only, which may be issued to steak, seafood or similarly menued supper clubs having a seating capacity of fifty (50) or more seats arranged in supper club style. Holders of a supper club license shall be permitted to use a "service type" bar for the preparation of drinks only and such drinks shall be consumed at the tables. The holder of a supper club license shall have the right to provide a waiting area bar for patrons who are waiting to be seated in the dining area of the supper club. The license fee for a "specialty supper club on-sale liquor license" shall be the sum of two thousand dollars (\$2,000.00) per year, payable in advance and at the time of making the application for such license as provided herein. Except as modified in the subsection, a licensee hereunder shall comply with and be subject to all of the remaining qualifications for licensees. Licenses issued under this subsection shall be limited in number to one (1) for each three thousand five hundred (3,500) people in the city as shown by the most recent federal or state census.
- (14) In addition to all other licenses for retail sale of beer authorized by this chapter, the city commission may issue a "specialty recreational on-sale beer license" to the owner of an establishment providing unique recreational activities for its patrons, such as, but not limited to, a discotheque nightclub that features a dance floor, light shows, a sophisticated sound system, and recorded music featuring the disco sound; a peanut bar that features honky-tonk piano music, old movies, sing-a-longs, and similar entertainment, and that serves peanuts and/or popcorn to its customers; or a recreational activity center which provides billiard tables, pool tables, fooseball machines, pinball machines and other similar electronic parlor games and similar activities. Such licenses may be issued only on the following conditions:
- a. The license fee shall be the same as provided for general on-sale beer licensees.
  - b. All other qualifications for licensees shall apply.
  - c. The application for license under this subsection shall be accompanied by an architect's interior and exterior design, floor plans, site locations and plans, and other operational characteristics, including entertainment.

Licenses issued under this subsection shall be limited in number to one (1) for each three thousand five hundred (3,500) people in the city as shown by the most recent federal or state census.

- (15) In addition to all other licenses for retail sale of liquor authorized by this chapter, the city commission may issue a "specialty recreational on-sale liquor license" to the owner of an establishment providing unique recreational activities for its patrons, such as, but not limited to, a discotheque nightclub that features a dance floor, light shows, a sophisticated sound system, and recorded music featuring the disco sound; a peanut bar that features honky-tonk piano music, old movies, sing-a-longs, and similar entertainment, and that serves peanuts and/or popcorn to its customers; or a recreational activity center which provides billiard tables, pool tables, fooseball machines, pinball machines and other similar electronic parlor games and similar activities. Such licenses may be issued only on the following conditions:
- a. The license fee shall be the same as provided for general on-sale liquor licensees.
  - b. All other qualifications for licensees shall apply.

- c. The application for license under this subsection shall be accompanied by an architect's interior and exterior design, floor plans, site locations and plans, and other operational characteristics, including entertainment.

Licenses issued under this subsection shall be limited in number to one (1) for each three thousand five hundred (3,500) people in the city as shown by the most recent federal or state census.

- (16) Municipal golf course beer license. In addition to all other liquor licenses authorized by this chapter, the city commission may issue a municipal golf course beer license to an operator authorized by the Williston Park District for the purposes of selling beer at the municipal golf course. Sales under this license are subject to the following condition:
  - a. Only beer sold by the operator/licensee approved by the Williston Park Board shall be consumed on the municipal golf course property.
  - b. All sales shall take place within the club house in a space where minors are not allowed, except for tournaments specifically authorized by the park board during which sales may take place on the course.
  - c. Unopened beer in a manner suitably identified in the park board's discretion may be removed from the club house to the golf course, however, may not leave the golf course premises.
  - d. Minors may be allowed in the club house where consumption takes place; however, nothing within this license shall be interpreted or construed to allow sales to or consumption by minors.
  - e. The consumption of the beer may take place within the club house or outside.
  - f. The annual fee for the municipal golf course license shall be three hundred dollars (\$300.00).
  - g. There shall be no self-serve or machine sales of beer.
  - h. The person selling the beer must be twenty-one (21) years of age or older.
  - i. The licensee/operator may be a golf-related organization recognized and approved by the Williston Park Board, or an individual approved by the Williston Park Board.
- (17) A "beer and wine on-sale" license shall authorize the licensee to sell beer and/or wine at retail for consumption upon the premises of the licensee. The initial fee for a beer and wine on-sale license shall be five thousand dollars (\$5,000.00), payable at the time of making the application for such license as provided herein. The annual renewal fee for a beer and wine on-sale license shall be one thousand dollars (\$1,000.00), payable at the time of making the renewal application for such license as provided herein.
- (18) Reserved.
- (19) A "restaurant on-sale beer and liquor license" shall mean a special license to sell beer and liquor on an on-sale basis only, which may be issued to an establishment providing multi-course meals as well as appetizers and desserts and which derives fifty (50) percent or more of its annual gross receipts from the sale of prepared meals on premises and not alcoholic beverages. The applicant shall disclose the amount of alcohol versus food sales tax information that was reported to the state and such will be provided within seven days of request to verify the fifty (50) percent requirement for food sales or they shall forfeit license. Main course menu items shall be fully prepared on the premises and shall not be primarily pre-packaged, pre-processed, or pre-prepared food products intended for fast or convenient service. The holder of a restaurant on-sale beer and liquor license shall have the right to provide an area where food and beverages are served to

patrons seated at a bar type structure and where beverages are prepared for other patrons seated in the restaurant. The hours within which sales of alcoholic beverages may be made shall coincide with the hours permitted by the City of Williston for the sale of alcoholic beverages and shall also be additionally limited as set forth herein. When the kitchen is not in full operation and a full menu service is not being offered to patrons, the sale and consumption of alcoholic beverages shall be discontinued. It is the intention of this restriction that the purpose of a "specialty establishment on-sale beer and liquor license" is to allow the sale of alcoholic beverages as an adjunct to the restaurant operation and not that of operating a full-time liquor establishment. Therefore, no live music, public dancing, or strobe lights are allowed at any time. A recipient of a "restaurant on-sale beer and liquor license" shall provide a full and complete restaurant and kitchen adequate for the preparation of food as required by this ordinance. Such restaurant and kitchen shall be subject to approval by the board of city commissioners. The initial one-time issuing fee for a "restaurant on-sale beer and liquor license" will be the sum of fifty thousand dollars (\$50,000.00). Fees for the license shall be two thousand three hundred dollars (\$2,300.00). Except as modified in this subsection, a license hereunder shall comply with and be subject to all of the remaining qualifications for licenses. There shall be no restrictions as to the number of licenses issued under this subsection. A "restaurant on-sale and liquor license" is specific to the location listed on the original application, is not transferable on a temporary basis, and any future transfers are restricted to establishments meeting the above criteria at that location. Noncompliance will require review and possible penalties by the Williston City Commission.

This ordinance shall be in full force and effect upon its final passage, approval, and publication.

Commissioner Bekkedahl moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner Cymbaluk. On roll call vote of the Commissioners vote "AYE": Brostuen, Bekkedahl, Piesik, Cymbaluk and Klug; and the following Commissioners vote "NAY": none. Absent and not voting: none.

WHEREUPON, the Motion was passed and the Ordinance declared **adopted this 23<sup>rd</sup> day of February, 2016.**

  
Howard Klug, President  
Board of City Commissioners

ATTEST:

  
John Kautzman, City Auditor

First Reading: 2/9/2016

Second Reading: 2/23/2016

Published: 3/5/2016