

ORDINANCE NO. 2024-10

**AN ORDINANCE AMENDING HARDIN CITY CODE
REGARDING BUSINESS LICENSES FOR BUSINESSES SELLING
BEER, WINE AND LIQUOR**

WHEREAS, the City Council (hereinafter "Council") of the City of Hardin (hereinafter "City") desires to modify and change the City Code of Hardin, Montana to comply with the restrictions of SB 262 of the 2023 Montana Legislature, codified at Mont. Code Ann. § 7-1-111(26) (2023);

WHEREAS, the City previously regulated beer, wine and liquor licenses in the City of Hardin;

WHEREAS, the City is no longer authorized to regulate beer, wine and liquor licenses, as they are originally issued by the State of Montana, per § 7-1-111(26)

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF HARDIN, MONTANA, Title 5, Chapters 5 and 6 are amended by the insertion of language (underlined), and deletion of language (strikethrough), as follows:

**CHAPTER 5
BEER AND WINE REGULATIONS**

5-5-1: LICENSE REQUIRED:

It shall be unlawful for any person to offer beer and/or wine for sale in the city without first obtaining a license from the state ~~and a license from the city.~~ (1958 Code; amd. Ord., 1983; Ord. 2016-02, 2-2-2016)

5-5-2: APPLICATION FOR LICENSE:

Upon receipt of the necessary license from the state, the applicant shall make written application to the city ~~council~~ for a license to carry on such business in the same manner as in Title 5, Chapter 1, Section 2(D), and shall provide such state issued license to the city, ~~and the said council shall thereupon consider the same, and if satisfied that the said applicant is a proper and suitable person and should be permitted to carry on such business, the council may grant such license, the same to be issued by the finance officer/city clerk upon the payment of the fees hereinafter set forth.~~ (1958 Code; amd. Ord., 1983; Ord. 93-4, 8-17-1993)

5-5-2A: INVESTIGATION OF APPLICANT:

Upon receipt of an application, accompanied by the necessary license fee, the city council shall, within five (5) days thereafter, cause to be made a thorough investigation of all matters pertaining thereto, and determine whether such applicant is licensed by the State of Montana, qualified to receive a license and whether the requirements of this chapter, the laws of the state and the rules and regulations of the Montana department of revenue are met and complied with. (1958 Code; amd. Ord., 1983)

5-5-3: POWER OF COUNCIL TO REVOKE OR RECALL LICENSE:

The council shall have the power to revoke or recall any license issued under the provisions of this chapter when it shall appear that any person to whom such license has been granted has been convicted of a violation of this chapter, or the laws of this state relating to gambling or the sale of intoxicating liquors. (Ord. 133, 2-6-1934; amd. Ord. 145, 12-7-1937)

5-5-4: REQUIREMENTS AND RESTRICTIONS:

A. A retail beer and/or wine license shall not be issued as a matter of right. The city, in its discretion, may issue or refuse to issue a license to any person, even though he holds a state license.

B. A retail beer and/or wine license may not be renewed or transferred as a matter of right. The city, in its discretion, may renew, may consent to the transfer, or decline to consent to the transfer of any license, although the holder of the license, or the transferee holds a license from the state. Upon an approved transfer, no new fee shall be collected by the city if said transferred license is current.

C. A retail beer and/or wine license or a renewal or a transfer thereof may only be granted by the council by resolution adopted. (Ord. 133, 2-6-1934; amd. Ord. 145, 12-7-1937; Ord. 2016-02, 2-2-2016)

5-5-5: LICENSE FEES:

The charges for such licenses shall be as in Title 5, Chapter 1, Section 2(D), follows:

Each beer retailer	\$200.00 per year
Each wine retailer	200.00 per year
Each beer and wine retailer	400.00 per year
Each club for beer and wine	75.00 per year
Each club for beer only	50.00 per year
Nationally chartered veterans' organization	50.00 per year

The fees shall apply equally to both on premises and off premises licenses issued by the state of Montana.

~~Any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event: Fifteen dollars (\$15.00) per day, minimum of thirty dollars (\$30.00) per event.~~

~~Licenses issued shall be for the current calendar year. Nothing herein shall be construed to entitle any licensee to a refund of any portion of the license fee in the event of discontinuing his business or suspension or revocation of his license. There shall be no proration of license fees. (Ord. 2016-02, 2-2-2016)~~

5-5-6: LICENSE FEES PAYABLE IN ADVANCE:

All licenses shall be payable in advance on or before January 31 of each year, and all licenses shall expire at the end of the calendar year for which they are issued. Licenses for the same business use may be transferred, upon approval of the Mayor.

If any licensee, having paid the annual license fee, shall cease to operate, for any reason thereunder, at any time during the current year, such licensee shall not be entitled to a refund.

All licenses shall expire on December 31 of each year.

~~All license fees are payable yearly in advance at the office of the city clerk on or before twelve o'clock (12:00) noon on the city's last business day of the calendar year. It shall be unlawful for any person to fail to pay for his license at the time and place specified. If a person fails to pay the fee, he shall be fined in a sum of thirty three and one third percent ($33\frac{1}{3}\%$) of any license fee delinquent on January 1 of the renewal year, sixty six and two thirds percent ($66\frac{2}{3}\%$) of any license fee delinquent on February 1 of the renewal year and one hundred percent (100%) of any license fee delinquent on March 1 of the renewal year. If continuing in the sale of beer and/or wine without such license, said person, upon conviction, shall be punished as provided in this code. (1958 Code; amd. Ord., 1983; Ord. 93-4, 8-17-1993; Ord. 2011-05, 5-3-2011; Ord. 2016-02, 2-2-2016)~~

5-5-7: CLUB DEFINED:

~~A "club" means a national fraternal organization except college fraternities, or an association of individuals organized for social purposes and not for profit and not generally open to the public, with a permanent membership and an existence of two (2) years prior to making application for license with permanent quarters or rooms. (1958 Code; amd. Ord., 1983)~~

5-5-8: RESIDENTIAL LICENSE PROHIBITED:

~~No license shall be issued for any such business to be conducted in a residential district. (1958 Code; amd. Ord., 1983)~~

5-5-9: HOURS OF SALE:

It shall be unlawful for any person to sell, offer for sale or give away, in or upon any premises within the city, any beer and/or wine on any day between the hours from two o'clock (2:00) A.M. until eight o'clock (8:00) A.M. It shall be unlawful for any person, except the owner or employees of any barroom, club bar or other place where beer and/or wine is sold or dispensed, to be permitted to remain in such premises during said hours. (Ord. 82-3, 8-17-1982; amd. Ord. 2016-02, 2-2-2016)

5-5-10: REPORT TO STATE BOARD:

In the case of the conviction of any licensee hereunder of any violation of this chapter in the city court, the city judge shall, within ten (10) days thereafter, whether or not an appeal has been taken from the judgment of conviction, transmit to the city council and the Montana department of revenue a certified copy of the record of conviction. (1958 Code; amd. 1984 Code)

5-5-11: SUSPENSION OF STATE LICENSE:

If any license issued by the Montana department of revenue, under the provisions of title 16, chapter 6, Montana Code Annotated, shall be revoked or shall be suspended under the provisions of said statutes, the accompanying license issued under the provisions of this chapter shall be automatically revoked and suspended for the same period, and in such event the action of the Montana department of revenue shall, upon appeal, be modified or set aside, the suspension or revocation of the license issued under the provisions of this chapter shall likewise be automatically affected. (1958 Code)

5-5-12: RESTRICTED SALES:

It shall be unlawful for any person to sell, give or otherwise supply any beer and/or wine to any person under the age of twenty one (21) years, to any person apparently under the influence of an alcoholic beverage, or to sell any beer and/or wine except as complies with the laws of the state and this city. (Ord. 363, 6-15-1971, eff. 7-15-1971; amd. per attorney 8-27-1993; Ord. 2016-02, 2-2-2016)

5-5-13: LIMITS OF AREA AFFECTED BY THIS CHAPTER:

All the provisions of this chapter shall extend throughout the incorporated city limits of Hardin, Montana. (1958 Code)

5-5-14: AGE LIMIT FOR SALE OF ALCOHOLIC BEVERAGES:

A. Except in the case of an alcoholic beverage given to a person under twenty one (21) years of age by his parent or guardian for beverage or medicinal purposes or administered to him by his physician or dentist for medicinal purposes or sold to him by a vendor or druggist upon the prescription of a

physician, no person shall sell, give or otherwise supply an alcoholic beverage to any person under twenty one (21) years of age or permit any person under that age to consume an alcoholic beverage.

B. Any person shall be guilty of a misdemeanor who:

1. Invites a person under the age of twenty one (21) years into a public place when an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such person;

2. Permits such person in a public place where an alcoholic beverage is sold to treat, give or purchase liquor for him; or

3. Holds out such person to be twenty one (21) years of age or older to the owner of the establishment or his or her employee or employees.

C. It is unlawful for any person to fraudulently misrepresent his or her age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card.

D. The first offense of this section shall be punishable by a fine in the amount of five hundred dollars (\$500.00) and/or six (6) months' imprisonment. Second offense by any one person or by an employee of the same premises licensed for the sale of alcoholic beverages shall result in a ten (10) day suspension of the said premises' city license for the sale of said alcoholic beverages. The third offense by any one person or said agents or employees of any one licensed premises shall result in revocation of the city license for the sale of alcoholic beverages. (Ord. 91-4, 11-19-1991)

5-5-15: MISREPRESENTATION OF AGE:

Any person under the legal drinking age who knowingly misrepresents his age by any written document for the purpose of obtaining beer and/or wine shall be reported for disposition to the Big Horn County juvenile officer, the Hardin Police Department, or other proper authority. (Ord., 1983; amd. Ord. 2016-02, 2-2-2016)

5-5-16: PENALTY:

(Rep. by Ord. 95-5, 11-7-1995)

5-5-17: UNOBSTRUCTED VIEW REQUIRED:

All window shades, blinds or screens in any place where intoxicating beverages are sold within the city limits, shall be raised, opened or removed during the following hours: Sundays from two o'clock (2:00) A.M. to one o'clock (1:00) P.M., on any other day between twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M., so that an unobstructed view where possible can be had from the street or exterior of such place. (1984 Code)

**CHAPTER 6
LIQUOR REGULATIONS**

5-6-1: APPLICATION FOR LICENSE:

The applicant shall file with the city finance officer/city clerk an application in writing, as in Title 5, Chapter 1, Section 2(D), signed by the applicant, and containing such information and statements relative to the applicant and the premises where the liquor is to be sold, including a copy of the state issued license to sell or serve liquors may be required by the council. ~~The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of such application, the license, if issued, shall be revoked.~~ (1958 Code; amd. Ord., 1983; Ord. 93-4, 8-17-1993)

5-6-2: INVESTIGATION OF APPLICANT:

Upon receipt of an application, accompanied by the necessary license fee, the city council shall, within five (5) days thereafter, cause to be made a thorough investigation of all matters pertaining thereto, and determine whether such applicant is licensed by the State of Montana~~qualified to receive a license and whether his premises are suitable for the carrying on of the business, and whether the requirements of this chapter, the laws of the state, and the rules and regulations of the Montana department of revenue are met and complied with.~~ (1958 Code; amd. Ord., 1983)

5-6-3: LICENSE FEES:

The charges for such liquor licenses shall be as in Title 5, Chapter 1, Section 2(D), follows:

All beverages	\$500.00 per year
All beverages with catering option	660.00 per year
Each club	200.00 per year
Nationally chartered veterans' organizations	325.00 per year

~~Licenses issued shall be for the current calendar year. Nothing herein shall be construed to entitle any licensee to a refund of any portion of the license fee in the event of discontinuing his business or suspension or revocation of his license. There shall be no proration of license fees.~~

~~A "club" means a national fraternal organization, except college fraternities, or an association of individuals organized for social purposes and not for profit and not generally open to the public, with a permanent membership and an existence of two (2) years prior to making application for license with permanent quarters or rooms. (Ord. 2005-04, 9-6-2005)~~

5-6-3A: LICENSE FEES PAYABLE IN ADVANCE:

All licenses shall be payable in advance on or before January 31 of each year, and all licenses shall expire at the end of the calendar year for which they are issued. Licenses for the same business use may be transferred, upon approval of the Mayor.

If any licensee, having paid the annual license fee, shall cease to operate, for any reason thereunder, at any time during the current year, such licensee shall not be entitled to a refund.

~~All license fees are payable yearly in advance at the office of the city clerk on or before twelve o'clock (12:00) noon on the city's last business day of the calendar year. It shall be unlawful for any person to fail to pay for his license at the time and place specified. If a person fails to pay the fee, he shall be fined in a sum of thirty three and one third percent (33¹/₃%) of any license fee delinquent on January 1 of the renewal year, sixty six and two thirds percent (66²/₃%) of any license fee delinquent on February 1 of the renewal year and one hundred percent (100%) of any license fee delinquent on March 1 of the renewal years. If continuing in the sale of beer or wine without such license, said person, upon conviction, shall be punished as provided in this code. (1958 Code; amd. Ord., 1983; Ord. 91-6, 12-3-1991; Ord. 93-4, 8-17-1993; Ord. 2011-06, 5-3-2011)~~

5-6-4: CONTENTS OF LICENSE; NONTRANSFERABLE; EXPIRATION:

Every license issued under this chapter shall set forth the name of the person to whom issued, the location by street of the premises where the business is to be carried on under said license, and such other information as the Council shall deem necessary. If issued to a partnership, the names of the persons conducting the business shall be set forth. Such license shall be signed by the licensee, shall be nontransferable except and only with the consent of the State of Montana Council, shall be posted in a conspicuous place on the premises in respect to which it is issued and shall be exhibited to ~~any duly authorized representative of the Council~~ whenever the same is requested. Every license issued under the provisions of this Chapter is separate and distinct, ~~and no person, except the licensee therein named, shall exercise any of the privileges granted hereunder,~~ and all licenses are applicable only to the premises in respect to which they are issued. All licenses shall expire on December 31 of each year.

5-6-5: STATE LIQUOR LICENSE REQUIRED:

No person, club or fraternal organization shall be entitled to a license under this Chapter unless such person, club or fraternal organization shall have a retail liquor license issued under the laws of the State of Montana.

5-6-6: REQUIREMENTS AND RESTRICTIONS:

~~A. A retail liquor license shall not be issued as a matter of right. The City, in its discretion, may issue or refuse to issue a license to any person, even though he holds a State license.~~

~~B. A retail license may not be renewed or transferred as a matter of right. The City, in its discretion, may renew, or decline to renew, may consent to the transfer, or decline to consent to the transfer of any license, although the holder of the license, or the transferee, holds a license from the State. Upon an approved transfer, no new fee shall be collected by the City if said transferred license is current.~~

~~C. A retail liquor license, or a renewal or transfer thereof, may only be granted by the Council by resolution adopted.~~

5-6-7: PERSONS INELIGIBLE FOR LICENSE:

~~No license shall be issued by the Council to:~~

~~A. A person who has been convicted of being the keeper or is keeping a house of ill fame.~~

~~B. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency, morality or the laws of the Federal Government or the State of Montana.~~

~~C. A person whose license under this Chapter has been revoked for cause, or whose license has been revoked by the Montana Liquor Control Board.~~

~~D. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.~~

~~E. A person who is not qualified or whose premises does not conform to the provisions of this Chapter, or with the rules and regulations of the Council, or with the rules and regulations promulgated by the Montana Liquor Control Board.~~

(Revised Code 1958; amd. Ord., 1983; Ord. 91-6, 12-3-91)

5-6-8: SALE PROHIBITED TO CERTAIN PERSONS:

~~No licensee shall sell, deliver or give away or cause or permit to be sold, delivered or given away, any liquor to: (Revised Code 1958; amd. Ord., 1983)~~

~~A. Any person actually under the age of nineteentwenty-one (1921) years. (Ord. 363, 6-15-71, eff. 7-15-71; amd. Ord., 1983)~~

~~B. Any person apparently under the influence of an alcoholic beverage.~~

5-6-9: HOURS OF SALE:

~~It shall be unlawful for any person to sell, offer for sale or give away, in or upon any premises within the City, any liquor on any day between the hours from two o'clock (2:00) A.M. until eight o'clock (8:00) A.M. It shall be unlawful for any person, except for the owner or employees of any barroom, club, bar, or other place where liquor is sold or dispensed, to be permitted to remain in such premises during said hours. (Ord. 82-3, 8-17-82)~~

5-6-10: COUNCIL POWERS:

The Council shall make and promulgate such rules and regulations as it may deem necessary for carrying out the provisions of this Chapter and for the orderly and efficient administration thereof. Every licensee shall advise himself of such rules and regulations, and ignorance thereof shall be no defense. Without limiting the generality of the foregoing provisions, the Council shall be empowered to prescribe forms to be used in the administration of this Chapter, ~~the proof to be furnished and the conditions to be observed in the issuance of licenses; to prescribe notice required to the regulation thereof, and the manner of giving or serving the same; to prescribe, subject to the provisions of this Chapter, the conditions and qualifications necessary to obtain a license, and provide for the inspection of such licensed premises; to specify and describe the place and manner in which the liquor may be lawfully kept or stored; to prescribe the conduct, management and equipment of premises licensed to sell liquor, and to make regulations respecting the sale and consumption of liquor in clubs, hotels and other licensed businesses.~~

~~The Council shall have the power to suspend and/or revoke permanently or temporarily a license issued under this Chapter for a violation of this Chapter or any rule or regulation by the Council. (Revised Code 1958)~~

5-6-11: RIGHT TO INSPECT PREMISES:

The Council or any duly authorized representative thereof shall have the right at any time to make an examination of the premises of such licensee as to whether this Chapter, the laws of the State and the rules and regulations of the Council are being complied with.

No business shall be carried on under any license issued except in the name of the licensee. (Revised Code 1958)

5-6-12: RENEW, CANCEL OR SUSPEND LICENSE:

~~After suspension or revocation of a license, the Council shall have the power to renew the same if, in its discretion, a proper showing thereof has been made~~if any license issued by the Montana department of revenue, under the provisions of title 16, chapter 6, Montana Code Annotated, shall be revoked or shall be suspended under the provisions of said statutes, the accompanying license issued under the provisions of this chapter shall be automatically revoked and suspended for the same period, and in such event the action of the Montana department of revenue shall, upon appeal, be modified or set aside, the suspension or revocation of the license issued under the provisions of this chapter shall likewise be automatically affected. (Revised Code 1958)

5-6-13: MISREPRESENTATION OF AGE:

Any person under the legal drinking age who knowingly misrepresents his age by any written document for the purpose of obtaining liquor shall be reported for disposition to the Big Horn County Juvenile Office, Hardin Police Department, or other proper authority. (Ord., 1983)

5-6-14: PENALTY:

(Rep. by Ord. 95-5, 11-7-95)

5-6-15: UNOBSTRUCTED VIEW REQUIRED:

All window shades, blinds or screens in any place where intoxicating beverages are sold within the City limits, shall be raised, opened or removed the following hours: Sundays from two o'clock (2:00) A.M. to one o'clock (1:00) P.M.; on any other day between twelve o'clock (12:00) midnight and eight o'clock (8:00) A.M., so that an unobstructed view where possible can be had from the street or exterior of such place. (1984 Code)

DATE OF EFFECT.

The amendment to this ordinance shall take effect and be in force thirty (30) days from the date of its second reading and passage by the City Council as required by law.

FIRST READING AND PASSAGE By a majority vote of the members present this 3rd day of December, 2024.

YEAS 6

NAYS 0

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk



POSTED AND MADE AVAILABLE TO THE PUBLIC this 4th day of December, 2024.

[Signature]
City Clerk

SECOND READING AND PASSAGE By a majority vote of the members

present this 17th day of December, 2024.

YEAS 5

NAYS 0

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

