



City Attorney

DATE: May 6, 2019

FROM: Janelle Combs, City Attorney

ITEM: Ordinance 6379 regarding liquor licenses

REQUEST

Consider Introduction and Call for a Public Hearing on Ordinance 6379 to amend Ordinances 5- 01-04, 5-01-12 and 5-01-29 regarding Retail Licenses, Transfer Restricted and Fees.

Please place this item on the 5/14/2019 City Commission meeting agenda.

BACKGROUND INFORMATION

Administration and City Attorney staff met with various liquor license holders on December 12, 2018, February 7, 2019, February 22, 2019, and April 5, 2019. After that meeting, some of the Class D and E liquor license holders proposed changing the timing of the release of licenses from the actual census to the official estimated census. Consensus was previously agreed upon to add a senior living community license. The Commission directed staff at the April 23, 2019, Commission meeting to make the necessary changes for these to happen.

The attached proposed revisions change release of new licenses to the estimated census date and provide for a Class T license for senior living communities. The transfer restriction ordinance had to be changed to accommodate the new license. In addition, since the Commission is continuing with different exception licenses, staff has suggested that the fee structure be removed from the ordinance to match Community Development and other city fees which are set by schedule by the City Commission each year. This provides that each new Class of license will not require a modification of that ordinance as well.

RECOMMENDED CITY COMMISSION ACTION

First reading and Introduction of Ordinance 6379 and call for a Public Hearing.

STAFF CONTACT INFORMATION

Janelle Combs | City Attorney, 355-1340 or jcombs@bismarcknd.gov

CITY OF BISMARCK
Ordinance No. 6379

<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 5-01-04, 5-01-12, 5-01-29 OF THE CITY OF BISMARCK CODE OF ORDINANCES (1986 Rev.) BY AMENDING THE SECTION RELATING TO CLASSES OF RETAIL LICENSES, TRANSFER RESTRICTED AND FEES

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 5-01-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Classes of Retail Licenses is hereby amended and re-enacted as follows:

5-01-04. Classes of Retail Licenses.

* * * * *

d. **Class D.** To any applicant for the sale at retail of alcoholic beverages other than applicants in other classifications. The total number of Class D licenses issued in any year may not exceed twenty-four, plus one additional license for each 2,500 people in excess of 60,000 people, as shown by the most recent official estimated census. New Class D licenses or Class D licenses revoked or not renewed may be issued only pursuant to section 5-01-06. A Class D licensee that does not have an "on-sale" location may be issued a special permit under Section 5-01-13 to sell alcoholic beverages "on-sale" at special locations as designated in the permit.

e. **Class E.** To any applicant for the sale at retail of beer only. The total number of Class E licenses issued in any year may not exceed sixteen plus one additional license for each 2,500 people in excess of

60,000 people, as shown by the most recent official estimated census. New Class E licenses or Class E licenses revoked or not renewed may be issued only pursuant to section 5-01-06.

* * * * *

t. Class T. To an applicant for the sale of "on-sale" only beer, wine and liquor, subject to the following conditions:

(1) The applicant must be a residential community providing full-time residential housing predominately for individuals over the age of 62, such as a continuing care retirement center, assisted living facility or senior living community.

(2) The dispensing of alcohol is only to residents, bona fide guests of residents or potential residents on the licensed premises.

(3) The license is for "on-sale" only, and "off-sale" is not permitted. A cessation of business at a licensed location for a period of ninety days or longer shall constitute cause to revoke such license pursuant to Section 5-01-09.

(4) Once a license has been established at a particular location, the license may not be transferred to another location.

(5) The licensee may not sponsor or permit public dances or public dancing at a time when alcoholic beverages are being dispensed or consumed. Minors cannot have view of the location where alcoholic beverages are dispensed.

(6) A licensee may not obtain an event permit pursuant to Section 5-01-13, except on real property owned in the name of the licensee.

(Ord. 4116, Sec. 1, 12-2-86; Ord. 4120, Sec. 1, 12-16-86; Ord. 4124, Sec. 1, 1-13-87; Ord. 4148, 5-12-87; Ord. 4179, 9-29-87; Ord. 4193, 2-2-88; Ord. 4211, 7-19-88; Ord. 4253, 4-25-89; Ord. 4380, 6-18-91; Ord. 4430, 3-31-92; Ord. 4596, 04-12-94; Ord. 4618, 6-21-94; Ord. 4657, 12-20-94; Ord. 4705, 07-11-95; Ord. 4725, 09-26-95; Ord. 4938, 08-25-98; Ord. 5141, 11-13-01; Ord. 5152, 01-08-02; Ord. 5454, 08-23-05; Ord. 5513, 06-13-06; Ord. 5600, 05-08-07; Ord. 5821, 05-24-11; Ord. 5839, 07-12-11; Ord. 5848, 10-11-11; Ord. 5860, 02-28-12; Ord. 5985, 07-09-13; Ord. 5991, 08-27-13; Ord. 5998, 08-27-13; Ord. 6005, 09-24-13; Ord. 6025, 01-14-14; Ord. 6053, 05-27-14; Ord. 6096, 12-23-14; Ord. 6097, 1-13-15; Ord. 6189, 2-9-16; Ord. 6242, 1-10-17; Ord. 6252, 4-25-17; Ord. 6258, 06-13-17; 6286, 9-26-17; Ord. 6293, 11-28-17; Ord. 6294, 12-12-17)

Section 2. Amendment. Section 5-01-12 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Transfer Restricted is hereby amended and re-enacted as follows:

5-01-12. Transfer Restricted.

* * * * *

20. Class T - A Class T license may be transferred to another person only if that person has purchased or entered into an agreement to purchase that establishment. It may not be transferred to a new location.

(Ord. 4708, 07-25-95; Ord. 5826, 06-14-11; Ord. 6005, 09-24-13; Ord. 6025, 01-14-14; Ord. 6097, 01-13-15; Ord. 6294; 12-12-17)

Section 3. Amendment. Section 5-01-29 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Fees is hereby amended and re-enacted as follows:

5-01-29. Fees. Annual fees for licenses issued pursuant to this chapter shall be as established by the Board of City Commissioners. ~~are as follows:~~

Class A	\$3,528.00
Class A-2	\$403.00
Class B	\$630.00
Class	\$3,654.00
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Class C-2	\$945.00
Class D	\$3,906.00
Class E	\$756.00
Class F-1	\$3,402.00
Class F-2	\$1,449.00
Class F-3	\$819.00
Class G	\$693.00
Class H	\$680.00
Class I-1	\$3,276.00
Class I-2	\$1,386.00
Class I-3	\$756.00
Class J	\$63.00
Class K	\$630.00
Class L	\$334.00
Class M	\$630.00
Class N	\$756.00
Class O	\$756.00
Class P	\$630.00
Class Q	\$3,600.00

Class R	\$50.00
Class S	\$800.00

*Reference: N.D.C.C. 5-02-03 (1985 Supp. Ord. 6258, 06-13-17)
(Ord. 4124, 1-13-87; Ord. 4147, 4-28-87; Ord. 4179, 9-29-87); Ord. No. 4216, 7-19-88; Ord. 4389, 7-30-91; Ord. 4621, 07-05-94; Ord. 4656, 12-20-94; Ord. 4709, 07-25-95; Ord. 4731, 09-26-95; Ord. 4939, 08-25-98; Ord. 5454, 08-23-05; Ord. 5826, 06-14-11; Ord. 5999, 08-27-13; Ord. 6005, 09-24-13; Ord. 6025, 01-14-14; Ord. 6026, 01-28-14; Ord. 6097, 01-13-15; Ord. 6252, 04-25-17; Ord. 6294, 12-12-17)*

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage and adoption.

as shown by the most recent official estimated census.
New Class E licenses or Class E licenses revoked or not
renewed may be issued only pursuant to section 5-01-06.

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conditions:

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- (2) The dispensing of alcohol is only to residents, bona fide guests of residents or potential residents on the licensed premises.
- (3) The license is for "on-sale" only, and "off-sale" is not permitted. A cessation of business at a licensed location for a period of ninety days or longer shall constitute cause to revoke such license pursuant to Section 5-01-09.
- (4) Once a license has been established at a particular location, the license may not be transferred to another location.
- (5) The licensee may not sponsor or permit public dances or public dancing at a time when alcoholic beverages are being dispensed or consumed. Minors cannot have view of the location where alcoholic beverages are dispensed.
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Class J	\$63.00
Class K	\$630.00
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