

CHAPTER 18 Regulation and Licensing of Liquor Operations

ORDINANCE NO. 463-24

CHAPTER 18

AN ORDINANCE REMOVING CHAPTER 2.5 ALCOHOLIC BEVERAGES AND CREATING CHAPTER 18 REGULATIONS AND LICENSING OF LIQUOR OPERATIONS OF THE CITY OF LAKE PRESTON.

BE IT ORDAINED BY THE CITY OF LAKE PRESTON, KINGSBURY COUNTY, SOUTH DAKOTA, AS FOLLOWS:

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18.1 DEFINITIONS

The following words, terms, and phrases, when used in this chapter, shall have the meanings provided in this section, except where the context clearly indicates a different meaning.

SDCL Chapter 35.

ALCOHOLIC BEVERAGE. Any distilled spirits, wine, and malt beverages as defined SDCL Title 35.

CARRIER. A person who for hire transports passengers and who sells or furnishes to passengers for consumption alcoholic beverages aboard any means of conveyance or allows passengers to consume the passenger's own alcoholic beverages aboard the conveyance.

CONTROLLING INTEREST IN. An ownership interest in the licensee of 10% or more.

DEPARTMENT. Department of Revenue of the State of South Dakota.

DISTILLED SPIRITS. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use containing not less than one-half of 1% of alcohol by weight.

MALT BEVERAGE. A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, or any other similar product, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption containing not less than one-half of one percent of alcohol by weight.

MUNICIPALITY. Any incorporated city or town, and any unincorporated platted town having a United States post office. However, the subsequent withdrawal of a United States post office does not affect the right of established liquor licenses to be continued, renewed, or transferred and does not prevent the owner or bona fide lessee of the licensed premises from receiving a renewal or reissuance of such license.

OFF-SALE. The sale of any alcoholic beverage, for consumption off the premises where sold.

ON-SALE. The sale of any alcoholic beverage for consumption only upon the premises where sold.

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ON-SALE DEALER. Any person who sells, or keeps for sale, any alcoholic beverage for consumption on the premises where sold.

RELATIVE. Any person who is a husband, wife, son, daughter, brother, sister, father, or mother.

RETAIL LICENSE. An on-sale or off-sale license issued under the provisions of SDCL Title 35.

RETAILER or RETAIL DEALER. Any person who sells alcoholic beverages for other than resale.

SERVE. The taking of an order for an alcoholic beverage and intentionally delivering the alcoholic beverage to a customer for the purpose of consumption on the licensed premises and the customer takes physical possession of the alcoholic beverage.

WINE. Any beverage made from the fermentation of grapes, grape juice, other fruit bases, or honey, with or without adding alcoholic beverages; without rectification, except for the purpose of fortification; and contains not less than 0.5% and not more than 24% alcohol by volume.

WHOLESALE. Within the city of Lake Preston, a wholesaler shall refer to a distributor who regularly sells alcohol to retailers who then mark up the product and sell to customers.

18.2 PUBLIC NUISANCE

Any structure, conveyance, or place where alcoholic beverages are manufactured, sold, kept, bartered, given away, found, consumed, or used in violation of any State law or the ordinances of this city which pertain to alcoholic beverages and all alcoholic beverages and property kept and used in maintaining the same, is hereby declared to be a common nuisance. Maintenance of a common nuisance is a violation of this chapter.

18.3 DRINKING OR POSSESSION IN A PUBLIC PLACE

No person may drink any alcoholic beverage in any public place or possess any alcoholic beverage in any package, bottle, glass, or other container which is not sealed as required by law. For purposes of this section, the term "public place" shall mean any street, alley, sidewalk, or parking lot, commonly and customarily open to or used by the general public. This section does not apply to premises duly licensed under SDCL Title 35 (SDCL 35-1-1 et seq.).

18.4 SUNDAY SALES PERMITTED BY THE HOLDER OF OPERATING AGREEMENTS AND LICENSEES

- A. Notwithstanding any of the other provisions of this chapter, any holder of an operating agreement may sell, serve, and allow to be consumed on the premises covered by their operating agreement, alcoholic beverages between the hours of 10:00 a.m. and 12:00 midnight on Sunday.
- B. Notwithstanding any of the other provisions of this chapter any holder of retail malt beverage license or on-sale win license may sell, serve, and allow to be consumed on the premises covered by their license, malt beverages or wine between the hours of 10:00 a.m. and 12:00 midnight on Sunday.

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- C. Any holder of an off-sale operating agreement and licensed off-sale malt beverage and off sale wine retailers may sell and allow to be sold malt beverages or wine on Sunday after 7:00 a.m. for consumption off the premises where sold.
- D. Notwithstanding any other provisions of this chapter, any holder of a retail on-sale license may sell, serve, and allow to be consumed on the premises on Sunday between the hours of 10:00 a.m. and 12:00 midnight on Sunday for consumption on the premises where sold.
- E. Notwithstanding any other provisions of this chapter, the holder of an off-sale operating agreement may sell and allow to be sold alcoholic beverages on Sunday after 7:00 a.m. for consumption off the premises where sold.

18.5 MARKUP PERCENTAGE ON SALE OF ALCOHOLIC BEVERAGES

18.5.1 MALT BEVERAGES

The city shall charge and collect a markup of 5% percent above the municipality's costs of malt beverages, for all malt beverages, whether purchased for on sale or off-sale purposes.

18.5.2 WINE AND FARM WINE

The city shall charge and collect a markup of 5% percent above the municipality's costs of beverages, for all wine and farm wine sold within the city. The markup percentage shall apply to all wine and farm wine, whether purchased for on-sale or off-sale purposes. It is the responsibility of the licensee to provide all invoice copies and payment to the Lake Preston City Finance Office for all such sales by the 15th day of the following month, every month.

18.5.3 DISTILLED SPIRITS

The City shall charge and collect a markup of 5% above the municipality's costs of alcoholic beverage, for all alcoholic beverages sold within the City. The markup percentage shall apply to all alcohol beverages whether purchased for on-sale or off sale purposes or for package liquor sales. It is the responsibility of the licensee to provide all invoice copies and payment to the Lake Preston City Finance Office for all such sales by the 15th day of the following month, every month.

18.5.4 CONTENTS OF AGREEMENT FOR OPERATIONS OF ON-SALE BUSINESSES

The City operating agreement issued under SDCL 35-4-19 {2} shall include but not be limited to all provisions required pursuant to SDCL 35-4-21

18.5.5 CONTENTS OF AGREEMENT FOR OPERATION OF MUNICIPAL OFF-SALE ESTABLISHMENTS

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The City operating agreement issued for off-sale alcoholic beverages issued under to SDCL 35-4-22 shall include but is not limited to all provisions required under SDCL 35-4-23.

State Law reference- Municipal markups, SDCL 35-4-21, 35-4-23

18.6 VIDEO LOTTERY MACHINE LICENSE FEES

There is imposed on any person who is licensed pursuant to SDCL 35-4-2(4), (12), or (16) and who is issued a video lottery establishment license pursuant to SDCL 42-7A-41 an annual license fee for the privilege of locating video lottery machines on the licensed premises. The fee for each video lottery machine is as established by resolution, and shall be payable at the same time as the alcoholic beverage license fees.

18.7 MINIMUM LIABILITY INSURANCE LIMITS

All current and future operating agreements between the city and parties designated "manager" shall be subject to the following revised insurance limits: general liability insurance protecting both the City and the manager against claims for injury or damages to persons or property, such policy to have general liability limits of at least \$1,000,000.00 single limit, and \$1,000,000.00 aggregate, and a limitation of \$50,000.00 for damage to property. The general liability insurance limits are subject to change and the manager agrees to change limits of insurance if required by the City.

18.8 MEMORIAL DAY SALES PERMITTED

Any holder of an operating agreement, retail malt beverage license, on-sale wine license, the off-sale operating agreement, an off-sale malt beverage license, or an off-sale wine or farm wine retailer license may sell and allow to be sold alcoholic beverages on Memorial Day.

18.9 NOTIFICATION TO POLICE CHIEF REQUIRED FOR UNDER AGE 21 EVENTS

In order to provide for appropriate law enforcement during non-alcohol events for persons under the age of 21 advertised or held in establishments licensed for alcoholic beverages sales, any holder of an operating agreement for the sale of alcoholic beverages or retail malt or on-sale wine license shall notify the Kingsbury County Sheriff at least seven days prior to holding any event which is advertised or intended for persons who are under 21 and is to be held on the premises of the holder of an alcoholic beverage operating agreement or on-sale alcoholic beverage license.

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18.10 UNLAWFUL TO VIOLATE LIQUOR LAWS; REAPPLICATION UPON

18.10.1 VIOLATION OF LIQUOR LAWS UNLAWFUL

It is unlawful for any licensee under the provisions of the SDCL Title 35, and this chapter, or other person to violate any of the provisions of such laws or of this chapter or to fail to comply therewith within the City limits.

18-11 PROVIDING ALCOHOLIC BEVERAGE TO PERSONS UNDER 21 YEARS OF AGE

It is unlawful to sell or give for use as a beverage any alcoholic beverage to any person under the age of 21 years unless:

- A. It is done in the immediate presence of a parent or guardian or spouse, who is at least 21 years of age, while on the premises of an establishment licensed for the retail sale of alcoholic beverages pursuant to SDCL 35-4-2 or at a special event for which an alcoholic beverage license has been issued pursuant to SDCL 35-4-11.4 or
- B. It is done by prescription or direction of a duly licensed practitioner or nurse of the healing arts for medical purposes.

18.12 PURCHASE, POSSESSION, OR CONSUMPTION BY PERSON UNDER 21 YEARS OF AGE: MISREPRESENTATION OF AGE

It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase or possess or consume except when consumed in a religious ceremony and given to such person by an authorized person, alcoholic beverages, or to misrepresent his/her age for the purpose of purchasing or attempting to purchase such alcoholic beverages from any licensee as defined by SDCL 35-4-2.

18.13 PROHIBITING INDECENT EXPOSURE OR SIMULATION THEREOF AND ESTABLISHING A LICENSEE'S DUTY TO PREVENT THE SAME

- A. It is unlawful for any person or premises licensed for the sale of alcoholic beverages within the City of Lake Preston, to cause to allow, or permit any person on said licensed premises, while in the presence of any other person:
 1. To show the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering or any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

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2. To expose any device, costume or covering which gives the appearance of, or simulates, the genitals or pubic area of the male or female body, or the nipple or areola of the female breast.
 3. To perform erotic dancing which simulates sexual activity or which violates community standards, including male strippers, female strippers, topless or bottomless waitresses, erotic performers, or similar type activities.
 4. To allow pornographic material where it can be seen by patrons.
- B. A violation of this ordinance shall be punishable by a fine not to exceed \$150.00.
- C. Any licensee in alcoholic beverages who violates this Ordinance shall be subject to the suspension or revocation of his, her, or its license for each violation independently of any proceeding of a criminal nature. A hearing for the said suspension or revocation shall be conducted under the same provisions for termination as set out in the licensee's operating agreement.
- D. Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

18.14 SPECIAL ALCOHOLIC BEVERAGE LICENSES ISSUED IN CONJUNCTION WITH SPECIAL EVENTS

- A. The City may issue a special malt beverage retailer license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans' organization or a licensee licensed pursuant to SDCL subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;
- B. A special on-sale wine retailers license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to SDCL subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;
- C. A special on-sale license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to SDCL subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
- D. A special off-sale package wine dealers license in conjunction with a special event within the municipality to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to SDCL subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealers' licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL chapter 35-12.

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- E. Any license issued pursuant to this section shall not exceed a period of forty-eight (48) hours.
- F. No public hearing is required for the issuance of a license pursuant to this ordinance if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility.
- G. Any person or business entity obtaining a special alcoholic beverage license pursuant to this ordinance shall be restricted to no more than eighteen (18) licenses per calendar year.
- H. Special malt beverage retailer's license and special retail on-sale wine dealer's license.
 - a. This license may be issued to any civic, charitable, educational, or fraternal organization in conjunction with a special event.
 - b. The fee is \$5 per day for a period not to exceed 15 consecutive days.
 - c. This license shall be issued in the same manner as other malt beverage licenses, except that the state does not have to grant approval and the license fee remains in the municipality.
- I. Special liquor retailer's license.
 - a. This license may be issued to any civic, charitable, educational, or fraternal organization in conjunction with a special event.
 - b. The fee is \$5 per day for a period not to exceed 15 consecutive days.
 - c. This license shall be issued in the same manner as other liquor licenses, except that the state does not have to grant approval and the license fee remains in the municipality.

18.15 THE NUMBER OF ON-SALE/OFF-SALE LICENSEES TO BE ISSUED, UNDER LOCAL OPTION, MAY NOT EXCEED THE MAXIMUM AS SET FORTH AT SDCL 35-4-10 AND SDCL 35-4-11.

The maximum number of off-sale licenses and on-sale licenses that may be issued to operate within the City of Lake Preston, by operating agreement shall be established as the maximum number as authorized by SDCL 35-4-10 and SDCL 35-4-11 as they may from time to time be amended based upon population of the City of Lake Preston. Nothing contained herein requires the City of Lake Preston to issue the maximum number of operating agreements for on-sale and off-sale purposes.

The fees to be charged by the City of Lake Preston for the various operating agreement shall be as established for the maximum fees per each class of license as set forth at SDCL 35-4-2. The fee for off-sale licenses issued to municipalities, under local option, shall be \$500.00.

18.16 PERMANENT LICENSES

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SDCL 35-4-2 Division	Class of License	Fees
(3)	On-sale & Off-sale Malt Beverage & Farm Wine Off-sale liquor Renewal Fee	Not less than \$300 \$150 to State \$150 to City Not less than \$500
(4)	On-sale Liquor Renewal fee	Not less than \$750
(9)	Carrier	\$100 The fee licenses all conveyances the licensee operates in this state
	On-sale Restaurant	Not less than \$750

18.17 MALT BEVERAGE LICENSES

The municipality may issue as many malt beverage licenses as it deems necessary.

18.18 APPLICATION FOR LICENSE

- A. The governing body shall review the following factors in determining whether or not a video lottery machine shall be permitted in establishments issued an on-sale alcoholic beverage license pursuant to SDCL § 35-4-2(12) and (16):
 1. The number of current establishments currently licenses for video lottery;
 2. The proximity of the business to other establishments licensed for video lottery;
 3. The type of business and manner in which the applicant proposes to operate it;
 4. The location of the business in relation to other businesses, residential areas, or activities within the same general area;
 5. The extent to which minors frequent a business connected to the one proposed; and
 6. The effect the proposed business has on economic development.
- B. The governing body is to certify on each application filed with the Department for a license granted under SDCL § 35- 4-2(12) and (16) whether the business premises is authorized for video lottery machine placement.
- C. An existing video lottery license may not be denied renewal or transfer based upon the criteria set out in division (A). The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, the municipality may not restrict the number of alcoholic beverage licenses issued under SDCL § 35-4- 2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

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18.19 TRANSFER OF LICENSE

- A. The procedure for a transfer of license is the same as for application for a new license. The fee for a transfer is \$300. An affidavit of bulk sale and the existing license card must be submitted with the application for transfer.
- B. The application to transfer the license shall only be permitted if all municipal and state sales and use taxes incurred by the licensee as a result of the operation have been paid, and all property taxes, which are the liability of the licensee are paid or are not delinquent.

18.20 MUNICIPAL APPLICATION AND RENEWAL

- A. Any applicant for a new retail license, except as set forth in SDCL § 35-2-1.1, or the transfer of an existing license shall submit an application to the governing body of the municipality in which the applicant intends to operate, or if outside the corporate limits of a municipality, to the governing body of the county in which the applicant intends to operate. The applicant shall submit the required fee with the application. The governing body may approve the application for a new retail license or the transfer of an existing license if the governing body considers the applicant suitable to hold the license and the proposed location is suitable.
- B. The governing body may disapprove an application for a new retail license or the transfer of an existing license issued under subdivision SDCL § 35-4-2(4), (6), or (13) if:
 - 1. The approval of the application permits a person, corporation, or business entity to possess more than one-third of the licenses available to be issued in the jurisdiction; and
 - 2. The governing body determines that possession of more than one-third of licenses available is not in the public interest.

18.21 OPERATING AGREEMENTS

- A. Licenses.
 - 1. On-sale and off-sale license.
 - i. Any municipality that has obtained a license under SDCL Title 35 may issue licenses pursuant to SDCL § 35-4- 2(12) and (16).
 - ii. If a municipality has been issued an off-sale license only, the governing body may approve or disapprove applications for on-sale licenses issued pursuant to SDCL § 35-4-2(4). If a municipality has been issued an on-sale and off sale license, the governing body may, by resolution, enter into an operating agreement with any person for the specific purpose of

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operating an on-sale establishment or an off-sale establishment, or both for the municipality. (SDCL § 35-4-19)

2. Malt beverage license. The municipality may also enter into an operating agreement with an individual to operate a malt beverage license that the municipality owns.
 3. Off-sale license only. If a municipality has been issued an off-sale license only, the governing body may, by resolution, enter into an operating agreement with the manager of a legitimate operating business concern for the specific purpose of operating the off-sale establishment for the municipality. (SDCL § 35-4-22)
- B. Provisions of agreement. An operating agreement under SDCL § 35-4-19 shall include:
1. The manager is responsible for all operating expenses, including taxes, insurance, and license fees, if any;
 2. The manager may dispense only alcoholic beverages supplied by the municipal off-sale establishment;
 3. The agreement shall be for a period not to exceed five years with the provision of one extension also not to exceed five years in the discretion of the governing body;
 4. The agreement may be canceled by 90 days' written notice by either party;
 5. The manager shall pay for all alcoholic beverages supplied by the municipal off-sale establishment, the actual cost price, the transportation charges and markup, and any additional compensation or fee as may be mutually agreed upon by both parties;
 6. A complete and detailed record shall be maintained by the municipality of all alcoholic beverages supplied the on-sale manager. All alcoholic beverages shall be evidenced by prenumbered invoices prepared in triplicate showing the date, quantity, brand, size, and actual cost as set forth in division (B)(5) above. The invoices shall bear the signature of the on-sale manager or the manager's authorized representative. One copy of the invoice shall be retained by the off-sale establishment, one copy shall be retained by the on-sale establishment, and one copy shall be filed with the municipal auditor or clerk. All copies shall be kept as permanent records and made available for reference and audit purposes. (SDCL § 35-4-21)
- C. Purchase on credit. An operator may not purchase alcoholic beverages on credit.
- D. Number of operating agreements. The number of operating agreements the municipality may have is limited to the number of licenses a municipality can issue.

18.22 SALE TO PROHIBITED PERSONS

(A) No licensee may sell or serve any alcoholic beverage to any person who is obviously intoxicated.

(B) However, no licensee is civilly liable to any injured person or the injured person's estate for any injury suffered, including any action for wrongful death, or property damage suffered because of the intoxication of any person due to the sale or consumption of any alcoholic beverage in violation of the provisions of this section.

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(SDCL § 35-4-78) Penalty, see § 10.99

18.23-18.30- RESERVED (FUTURE USE)

18.31 LICENSES REQUIRED

No person may sell, offer for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct, within the city any alcoholic beverage without having a license therefor as required by SDCL Title 35 (SDCL 35-1-1 et seq.)

18.32 APPLICATION REVIEW PROCEDURE

The City council shall review all applications submitted to the City for available on-sale alcoholic beverage agreements and for all alcoholic beverage licenses in accordance with SDCL Chapter 35-2 (SDCL 35-2-1 et seq.) and in accordance with the following factors:

- A. Type of business which applicant proposes to operate. On-Sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations, or other stores where groceries or gasoline are sold unless it can be established that minors do not regularly frequent the area of designated sales in the establishment.
- B. Manner in which the business is operated. On-Sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses may not be issued to establishments which are operated in a manner which results in minors regularly frequenting the establishments.
- C. Extent to which minors are employed in such a place of business. On-sale alcoholic beverages operating agreements and on-sale alcoholic beverage licenses may not be issued to convenience grocery stores, gas stations or other stores where groceries or gasoline are sold and which regularly employ minors.
- D. Adequacy of the police facilities to properly police the proposed location. The City council shall inquire of the city manager whether the police department can adequately police the proposed location.
- E. Other factors. The hours that business is conducted shall be considered by the city council in its review of applications for on-sale alcoholic beverage operating agreements and on-sale alcoholic beverage licenses.

State Law reference- Local license approval, SDCL 35-2-1.2.

18.33 FULL SERVICE ON-SALE RESTAURANT LICENSES

18.33.1 DEFINITIONS OF TERMS, TERMS USED IN THIS SECTION MEAN

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Bar, any permanently installed counter within the restaurant area from which alcoholic beverages are regularly served to customers by a person who is tending bar or drawing or mixing alcoholic beverages.

Full-service restaurant, any restaurant at which a waiter or waitress delivers food and drink offered from a printed food menu to patrons at tables, booths, or the bar. Any restaurant that only serves fry orders or food such as sandwiches, hamburgers or salads is not a full-service restaurant;

Restaurant, any area in a building which is maintained, advertised, and held out to the public as a place where individually priced meals are prepared and served primarily for consumption in such area and where not more than 40 percent of the gross revenue of the restaurant is derived from the sale of alcoholic beverages. The restaurant shall have a dining room or rooms, a kitchen and the number and kinds of employees necessary for the preparing, cooking, and serving of meals.

18.33.2 LICENSE APPLICATION REQUIREMENTS DOCUMENTATION

An applicant for a full-service restaurant on-sale license shall provide sufficient documentation to the municipality with an application form provided by the municipality to prove that the primary source of revenue from the operation of the restaurant will be derived from the sale of prepared food and nonalcoholic beverages and not from the sale of alcoholic beverages. The supporting documentation concerning the primary source of revenue submitted pursuant to this section is confidential.

18.33.3 ANNUAL REPORTS

The full-service restaurant on-sale licensee shall submit an annual report and supporting documentation to the city on forms provided by the city of the annual sales of the full-service restaurant, which includes an oath verifying the validity of the information provided in the report. The report and the supporting documentation submitted pursuant to this section are confidential. The report shall contain the annual gross sales of the licensee for the following two categories:

- A. Food and nonalcoholic beverage sales; and
- B. Alcoholic beverages sales.

18.33.4 LICENSE RENEWALS

When renewing a full-service restaurant on-sale license, the city shall condition the license renewal upon receiving documentation that not more than 40 percent of gross sales from the preceding 12 months operation of the full-service restaurant is derived from the sale of alcoholic beverages.

18.33.5 ONLY RETAIL, ON-SALE SERVICE PERMITTED

A full-service restaurant on-sale licensee may only serve alcoholic beverages for on-premises consumption in the bar and dining room area of the restaurant.

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18.33.6 SMOKING PROHIBITED

No licensee that has a full-service restaurant on-sale license may allow smoking on the licensed premises.

18.33.7 FULL-SERVICE RESTAURANT LICENSE FEES

- A. As required by state law, the license fee charged for a full-service restaurant on-sale license as determined herein. However, any fair market value for such license as determined herein. However, any fair market value so established shall be a minimum of \$1.00 for each person residing within the city as measured by the last preceding decennial federal census.
- B. The license fee shall be initially established by resolution within 90 days of the initial adoption of this section. Subsequent changes in the license fee shall not be made for a period of ten years from the effective date of adoption of this section unless a population growth reported by the federal decennial census requires an increase in the fee.

18.33.8 REGISTRY OF FULL-SERVICE RESTAURANT ON-SALE LICENSEES

The city shall maintain a registry of each full-service on-sale restaurant license that is being offered for sale and the city shall furnish a copy of the registry to anyone who requests a new full-service restaurant on-sale license. The existing full-service restaurant on-sale licensee is responsible for registering with the city that the full-service restaurant on-sale license is for sale.

18.33.9 ISSUANCE OF NEW FULL-SERVICE RESTAURANT LICENSES RESTRICTED

The city may only issue a new license pursuant to this section if no on-sale license is on the registry or a person desiring to purchase an on-sale license listed on the registry provides documentation showing that the person is unable to purchase the on-sale license at the price established in subsection (18.23.7) of this article and on terms satisfactory to both the potential buyer and seller. The price of any on-sale license registered as "for sale" with the city shall be sold at the current fair market price set by the city pursuant to a resolution adopted in accordance with subsection (18.23.7) (B) of this section.

Dated this 8th day of April, 2024.

Andy Wienk
Andy Wienk, Mayor

ATTEST:

Brenda Klug
Brenda Klug, Finance Officer

First reading: 03/11/24

Adopted X/X/2024

CITY OF LAKE PRESTON

CHAPTER 18 Regulation and Licensing of Liquor Operations

Second reading: 04/8/24

Published: 04/17/24

Adopted X/X/2024