

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1373

AN ORDINANCE RE-ENACTING SECTIONS 3-26 THROUGH 3-36 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY REGARDING CITY ALCOHOLIC BEVERAGE LICENSING.

WHEREAS, the Montana legislature enacted SB 262 amending MCA 7-1-111 to prohibit local governments from requiring additional licensing when the State of Montana is the original issuer of a license, however, MCA 14-5-503 contains a specific allowance for local governments to issue separate licenses, which is not superseded by the revisions to MCA 7-1-111; now, therefore:

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 3-26 through 3-36 are hereby re-enacted:
ARTICLE II. - LICENSES

Sec. 3-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverages means beer, wine and liquor as defined by the statutes of the state.

All-beverage license establishment means bars, fraternal organizations and private clubs within the city limits authorized to sell for on-premises consumption any beer, wine and/or liquor.

(Code 1981, § 5.10.010; Ord. No. 854, § 1, 10-23-79)

State Law reference— Definitions, MCA 16-1-106.

Sec. 3-27. - Penalty for violation of article.

(a) Except as otherwise specified, any person who violates the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00 or by imprisonment for a term not to exceed six months, or both. (b) Each day of failure to comply with the provisions of this article shall constitute a separate offense.
(Code 1981, § 5.10.110)

State Law reference— Penalty for violation, MCA 16-6-314.

Sec. 3-28. - License required.

It shall be unlawful for any person to whom a retail license has been or may hereafter be issued by the state department of revenue under the Montana Alcoholic Beverage Code to engage in the retail sale of any alcoholic beverage within the corporate city limits without first obtaining from the city clerk a city license.

(Code 1981, § 5.10.020; Ord. No. 1219, § 11, 4-26-11)

State Law reference— City and county licenses, MCA 16-4-503.

Sec. 3-29. - Fees.

Each licensee under the provisions of this article shall pay an annual city license fee as follows:

(1) For establishments doing business under an all-beverage license—\$400.00 per annum. (2) For establishments doing business under a beer/wine license for on-

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premises consumption—\$300.00 per annum.(3)For establishments doing business under a beer license for on-premises consumption—\$200.00 per annum.(4)For business establishments doing business under a beer/wine license for off-premises consumption—\$300.00 per annum.(5)For establishments doing business under a beer license for off-premises consumption—\$200.00 per annum.(6)For business establishments doing business under a wine license—\$100.00 per annum.(7)For nationally chartered veterans organizations—\$50.00 per annum.
(Code 1981, § 5.10.030; Ord. No. 849, § 1, 8-14-79; Ord. No. 854, § 2, 10-23-79)

State Law reference— License and permit fees, MCA 16-4-501.

Sec. 3-30. - Prerequisites for obtaining license.

(a)No person shall be entitled to a city beer license under this article unless such person shall have, in respect to the same premises for which a license under this article is sought, a subsisting state license issued under the Montana Alcoholic Beverage Code.(b)No person shall be entitled to a city liquor license unless such person shall have, in respect to the same premises for which a license under this article is sought, a subsisting state all-beverages license or special permit issued under the laws of the state and a subsisting city beer license issued under the ordinances of the city.
(Code 1981, § 5.10.040)

Sec. 3-31. - Application for beer license.

Prior to the issuance of a city beer license, the applicant shall present to the city treasurer an application for a city license to sell beer at retail, subject to the provisions of the Montana Alcoholic Beverage Code and the ordinances of the city. Such application shall be accompanied with the appropriate license fee as provided by this article and satisfactory evidence that the applicant holds a subsisting state license as required by this article.

(Code 1981, § 5.10.050; Ord. No. 1219, § 12, 4-26-11)

State Law reference— Beer and wine license, MCA 16-4-101 et seq.

Sec. 3-32. - Application form.

The application shall be on an official form to be furnished by the city clerk and shall specify the location by street and number where the business is to be conducted, and the name, age, residence and duration of such residence of the applicant; and if the business is a partnership such information shall be set forth for each and every partner conducting the business. If the business is a fraternal organization, such fact shall be set forth in the application.

(Code 1981, § 5.10.060; Ord. No. 1219, § 13, 4-26-11)

Sec. 3-33. - Issuance.

Upon the filing of the application and payment of the required license fee as provided by this article, the city treasurer shall deliver such application to the city clerk. The city clerk shall then issue and deliver to the applicant a city beer license to conduct business at the premises specified on the application and for which the applicant owns and holds a subsisting state license; provided that the city clerk may hold the application until the next regular meeting of the city council, at which time the city clerk shall submit the application to the council. The council shall either grant or deny a license to the applicant and shall direct the city clerk accordingly. Such granting or denial of the license shall be based on the best interests of the city as determined by the council. If the license is denied, the license fee and all documents filed by the applicant, other than the application itself, shall be returned to the applicant.

(Code 1981, § 5.10.070; Ord. No. 1219, § 14, 4-26-11)

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Sec. 3-34. - Contents.

Every license issued under this article shall set forth the name of the person to whom the license is issued, the location by street and number of the premises where the business is to be carried on under the license, and the number and expiration date of all current licenses issued to such person by the state under the Montana Alcoholic Beverage Code. If the business is a partnership, the license shall set forth the names of all partners conducting the business. Such license shall be signed by the licensee and shall not be transferable, except as otherwise provided in this article.

(Code 1981, § 5.10.080)

Sec. 3-35. - Transfer.

(a) Any license issued pursuant to this article shall not be transferable. Every such license is separate and distinct, and no person except the licensee named therein shall exercise any of the privileges granted thereunder. All such licenses are applicable only to the premises for which they are issued, except that a transfer of any such license may be made pursuant to a written application to the city council, which shall be accompanied by satisfactory evidence of the consent of the state department of revenue to the transfer of the state license. (b) Whenever any licensee shall transfer a state license issued under the Montana Alcoholic Beverage Code, the transferee shall not sell any alcoholic beverage at retail without first procuring a transfer of the city license. No charge shall be required for such change.
(Code 1981, § 5.10.090)

State Law reference— Beer and wine license transfers, MCA 16-4-106; transfer of license by catering establishment, MCA 16-4-204.

Sec. 3-36. - Persons exempt from obtaining license.

Nothing in this article shall be deemed to apply to those persons engaged in the sale of alcoholic beverages:

(1) At any state liquor store. (2) In any common carrier serving its passengers in aircraft over or railroad cars in the city.
(Code 1981, § 5.10.100)

State Law reference— Passenger carrier license, MCA 16-4-302.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 8th day of August, 2023.

ATTEST:



Mary Rowe, City Clerk

FINALLY PASSED AND ADOPTED this 22nd day of August, 2023.

ATTEST:



Mary Rowe, City Clerk



John Hollowell, Mayor



John Hollowell, Mayor