Chapter 5.08 Retail Alcohol Sales

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5.08.010 Purpose

In accordance with the Montana Department of Revenue Alcoholic Beverages Code, it is unlawful to manufacture, distill, brew, sell and/or possess for the purpose of sale, any beer, wine or other alcoholic beverage, or otherwise engage in any such activity, without first obtaining the appropriate alcohol license from the Montana Department of Revenue and the City of Dillon. To ensure control of the sale of alcohol in the City of Dillon, it is declared necessary to regulate the sale of alcohol at retail establishments within city limits and to that end, require persons, and/or business entities to apply for and procure a City alcohol license prior to selling alcoholic beverages.

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5.08.020 Definitions

As used in this chapter, the following terms have the meanings ascribed to them in this section unless context indicates otherwise.

1. “Alcohol” means the intoxicating constituent of wine, beer, liquor, spirits, and other drinks.
2. **“**Beer” means a malt beverage containing not more than 8.75% of alcohol by volume; or an alcoholic beverage containing not more than 14% alcohol by volume that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients. The term does not include a caffeinated or stimulant-enhanced malt beverage.
3. **“**Brewery or Micro-Brewery” means an establishment for the manufacture of malt liquors, such as beer.
4. “Cider House” means an establishment for the manufacture of hard cider.
5. “Club” means a national fraternal organization, except college fraternities, or an association of individuals organized for social purposes and not for profit, with a permanent membership and existence of not less than two years, and permanent quarters or rooms.
6. “Council” means the Council of the City of Dillon.
7. **“**Distillery or Micro-Distillery” means a plant and works where alcoholic drinks are made by distillation.
8. "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 6.9% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider
9. “City Alcohol License” means a license issued by the City of Dillon to a qualified person, or entity, under which it is lawful for the licensee to sell and dispose alcohol at retail as provided in this Chapter.
10. “Licensee” means the person or entity to whom a City alcohol license is issued.
11. “Liquor” means a distilled or spirituous beverage, such as brandy or whiskey, as distinguished from a fermented beverage, such as wine or beer.
12. “Persons” means every individual, entity, co-partnership, corporation, hotel, restaurant and club, and licensed retailer of liquor, whether conducting the business singularly or collectively.
13. “Sale” or “selling” includes the exchange of goods, wares, or merchandise in exchange for consideration, or the offer, exhibition, solicitation, or taking of orders for the sale of goods, wares, or merchandise, or the distribution of commercial printed matter in aid of any such sale.
14. “Wine” means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.
15. **“**Winery” means an establishment at which wine is produced.

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5.08.030 Zoning Restrictions (See Title 17 Zoning for specific regulations)

1. Pursuant Title 17, Zoning, the sale of liquor, beer, and wine within the City limits for on premise and off premise consumption is restricted to the following Zoning Districts:
   1. C-1 Community Business District
   2. C-2 Commercial Business District
   3. C-3 Central Business District
   4. B-P Business Park (With Conditional Use Permit)
   5. PLI Public Lands and Institutions
   6. M-1 Light Manufacturing/Industrial District
   7. M-2 Heavy Manufacturing/Industrial District
2. The sale of wine, beer and liquor is prohibited in the following Zoning Districts:
   1. R-1 Residential Single Household, Low Density District
   2. R-2 Residential Two Household, Medium Density District
   3. R-3 Residential Multi-Unit Household, High Density District
   4. RMH Residential Manufactured Home Community
   5. AG Agriculture District
3. Those businesses selling beer, wine and/or liquor for on premise or off premise consumption prior to enactment of this ordinance are exempt from these zoning restrictions.
4. Exceptions. Temporary events such as fairs, weddings, or sporting events serving alcohol using a catering endorsement regardless of the type of state issued on premises retail license as defined in the Montana Alcoholic Beverage Code.

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5.08.040 City Alcohol License-Required

1. Types of City Alcohol Licenses. The City of Dillon issues the following types of alcohol related licenses:
2. City All-Beverages License.
   1. Establishments such as bars and taverns within Dillon City limits which serve all alcoholic beverages including distilled spirits, wine, and beer.
   2. Distilleries that serve liquor on premises must have an All Beverage License issued by the City of Dillon.
3. City Beer License.
   1. Establishments such as bars or taverns located within Dillon City limits may serve beer. Applicants must have a designated bar area.
   2. Breweries that serve beer on premises must have a Beer License issued by the City of Dillon
4. City Beer License with Wine Endorsement.
   1. Beer license holders may serve wine if they have the wine amendment.
   2. Wineries that serve wine on premises must have a Beer License with Wine Endorsement.
5. City Off-Premise License.
   1. Convenience or grocery stores and businesses that 95% of gross income comes from beer or wine sales, such as specialty beer or wine shops, must have an Off-Premise License issued by the City of Dillon.. Beer and wine must only be sold in original packaging.
   2. Breweries that allow customers to purchase beer or wine to take home or consume elsewhere, must have an Off-Premises License issued by the City of Dillon.
   3. Distilleries that allow customers to purchase liquor to take home or consume elsewhere, must have an Off-Premises Licenses issued by the City of Dillon.
   4. Wineries that allow customers to purchase wine to take home or consume elsewhere must have an Off-Premises License issued by the City of Dillon
   5. Customers may not drink alcohol sold for off-premises consumption anywhere on the property, including sales floor, parking lot, or decks, patios, sports or play areas connected to the business.
6. City Veterans’/Fraternal Organization License. Licenses are issued to Veterans’ or Fraternal Organizations that serve all alcoholic beverages, including distilled spirits, wine, and beer.
7. Application - Information required. Any person desiring to purchase licenses required by this chapter must submit to the City Clerk an application for the license. The application must be accompanied by the license fee set forth in Section 5.08.040(E) along with a copy of the license issued by the Montana Department of Revenue Alcoholic Beverage Control Division.
8. Application for a City alcohol license must be made on a form to be provided. The application must be signed by the applicant, notarized, include the license fee and contain, at a minimum, the following information:
   1. Name of the person and/or entity to whom issued;
   2. The location, by street and number or other specific description of location if no street address exists, of the premises where the business is to be carried on under the license;
   3. If the City alcohol licensee is a partnership or if more than one person has any interest in the business operated under the City alcohol license, the names of all persons in the partnership or interest in the business must appear on the application;
   4. If applicant is an agent, the application must be accompanied by the principal's acknowledgment of the agency and/or certificate of authority.
9. It is the duty of the City Clerk to issue a City alcohol license upon presentation of a properly completed application, together with tender of the appropriate City alcohol license fee. Applications for new City Alcohol Licenses may be denied if it is found that the premises are not in compliance with Title 17 Zoning.
10. Fees.
    1. Applications for new City alcohol licenses and applications for renewal of annual City alcohol licenses, must be accompanied by a fee equal to one-half of the statutory license fee imposed by the Montana Department of Revenue Alcoholic Beverage Control Division. Fees are payable in full on or before the thirty-first day of December of each year. Fees not paid by January 31 are delinquent and may be subject to penalties. City alcohol license fees may be pro-rated by the month for any new business established during the calendar year.
    2. Disposal of fees and fines collected under this article must be allocated to the "General Fund" of the City, it being hereby recited that City alcohol licenses imposed under the provisions of this article are exclusively for the purpose of defraying the cost of necessary police regulation, inspection and control under the police power of the City, and not for revenue. Any business licensed under this article requires and is subject to the general police regulations of the City for the safety, health, peace, quietness and good order of the city and the inhabitants thereof. All fees provided for in this article are in addition to any and all other license fees required to be paid under any other City ordinance.
11. City Alcohol License - Posting requirement. City alcohol licenses issued under this chapter must be posted in a conspicuous place on the premises wherein the business authorized under the City alcohol license is conducted, and such City alcohol license must be exhibited to any law enforcement officer upon request.
12. City Alcohol License - Expiration date. City alcohol licenses issued under this chapter expire on the thirty-first day of December at midnight. City alcohol licensees under this chapter are not entitled to a refund of any portion of the license fee in the event of discontinuing the business, or the suspension or revocation of a license, prior to the normal expiration date.
13. City Alcohol License - Transfer. The transfer of any City alcohol license issued by the City under this chapter may be made by the City Clerk upon application signed by the applicant for the transfer accompanied by evidence of approval of the transfer by the Montana Department of Revenue Alcohol License to the named business. Provided, however, that the City Clerk must not issue a City alcohol license in the name of the transferee until it has been determined that violations of Title 17 Zoning do not exist at the place of business sought to be licensed under the transfer.

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5.08.050 Examination of Premises by City Officials

Any business that holds a City alcohol license is subject to police inspection and control of the City at all times. The licensee, and/or employees of such licensee, must at all times permit the Mayor, the Director of Operations, and members of law enforcement the right to enter the premises where such business is conducted to inspect such premises and every part thereof, and for exercise of police supervision, inspection and control thereof, including arrests for violations of State statute, so long as any business licensed under this article is conducted therein or in any part thereof. Denial, restriction or obstruction of such right or permission may be deemed a violation of this article, and may cause any City alcohol license granted hereunder to be subject to revocation or suspension of the City alcohol license forthwith, and subject the offender to the fines and penalties herein provided.

Enc Ord 461 May 15, 2019

5.08.060 Revocation of City Alcohol License

The City of Dillon recognizes suspension of licenses or permits granted under the provisions of the Montana Department of Revenue Alcoholic Beverage Code. The revocation or suspension of any license or permit granted under the provisions of the Montana Alcoholic Beverage Code will also operate as a suspension or revocation, as the case may be, of any City alcohol license granted under this article.

Enc Ord 461 May 15, 2019

5.08.070 Violation - Penalty

It is the duty of every person or entity having any connection whatsoever with alcoholic beverage licenses to comply fully with all state laws. Those who violate provisions of this chapter may be deemed guilty of misdemeanor and may, upon conviction thereof, be punishable by a fine of not exceeding five hundred dollars ($500.00) for each offense.

Enc Ord 461 May 15, 2019