

## ORDINANCE NO. 2028

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA AMENDING CHAPTER 4 – LIQUOR – RETAIL SALES, BOZEMAN MUNICIPAL CODE DELEGATING TO THE BOZEMAN CITY MANAGER THE AUTHORITY TO ISSUE ALCOHOL LICENSES WITHIN THE CITY**

**WHEREAS**, the City of Bozeman (the “City”) is authorized by the City Charter and Montana law to protect public health, safety and welfare of the citizens of Bozeman, and

**WHEREAS**, it is the intent of the City Commission to delegate responsibility to the City Manager to approve City licenses for alcohol sales to increase efficiencies in the City’s licensing process.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOZEMAN, MONTANA:**

### **Section 1**

That section 4.02.030, Bozeman Municipal Code is revised as follows:

**Sec. 4.02.030. - City license required; application; license fees.**

- A. No person shall manufacture or sell alcohol in the city, under the provisions of the Montana Alcoholic Beverage Code, or at all, without first procuring a license to do so from the city. Application for a city license shall be made to the city manager ~~commission~~ on a form to be

provided by the city treasurer ~~director of administrative services~~. Separate licenses shall be required for the sale of beer and for the sale of wine. The application will be signed by the applicant, notarized, include the license fee and contain, at a minimum, the following information:

1. Applicant's name, age, and address;
2. The business' name and address or, in the case of a transfer or relocation, the address of the proposed new location;
3. The type of alcohol beverage license either applied for or granted by the state, ~~when it was applied for~~, the date it was granted and expiration date;
4. A short statement of the applicant's purpose for obtaining the license;
5. A short explanation for the applicant's benefit explaining the city's authority to revoke or suspend the business license in response to a similar action by the state.

- B. The application shall be filed with the city treasurer ~~clerk~~ and presented for the consideration of the city manager ~~commission~~. The city manager ~~commission~~ may, in its use discretion, to postpone any action for investigation or other good cause. ~~The action of the commission with reference to the application shall be recorded in the meeting's minutes.~~
- C. If the application is rejected, the reasons must be noted on the application ~~in the minute entry~~, the applicant notified, and the tendered fee returned.
- D. License fees must be payable in advance and shall accompany the application therefor, whether original or renewal. All licenses under this article will expire at 12:00 midnight of December 31, in the year for which such license is issued. In the event that a license is granted after June 30 of any year, the license fee will be one-half of the entire yearly license.
- E. If the entire yearly license fee has been paid in advance and the business under the license is discontinued before July 1 in the year in which such license is granted, the city treasurer ~~director of administrative services~~ will refund one-half of the yearly license fee upon surrender of the license, ~~make an appropriate book entry, and report to the commission.~~

## **Section 2**

That section 4.02.040, Bozeman Municipal Code is revised as follows:

**Sec. 4.02.040. - Form of city license.**

- A. Licenses issued under the provisions of this article must be prominently posted in the business and will contain, at a minimum, the following information:
1. The licensee's name and the business' name and address;
  2. The purpose for the license;
  3. The expiration date of the license;~~;~~ and
  4. ~~The minute book and page number containing the commission's approval.~~
- B. ~~The city treasurer~~ director of administrative services will keep an accurate record of all licenses issued under this article, ~~showing the date issued, the minute book and page where authority for its issuance is found,~~ the date of issuance, to whom issued, the amount collected, the date of expiration, a description of the premises, change of location, or transfer, if any, ~~and minute entry showing authority therefor,~~ and any other pertinent fact with reference to such license, so that the same may be conveniently available.

**Section 3**

That section 4.02.050, Bozeman Municipal Code is revised as follows:

**Sec. 4.02.050. - Special permits—When granted.**

- A. The city ~~manager~~ commission, ~~with~~ in its discretion and upon application, may grant a special permit to sell beer or wine for consumption on the premises to the following:
1. Any association or corporation conducting a picnic, convention, fair, civic or community enterprise or sporting event within the city limits;
  2. A nonprofit arts organization, organized and operated for the principal purpose of providing artistic or cultural exhibitions, presentations, or performances for viewing or attendance by the general public, to be served at an exhibition, production, performance or program for on-premises consumption; and
  3. Any other organization or for any other reason the city ~~manager~~ commission, ~~with~~ in its discretion, determines should be allowed to serve or sell alcohol during a function.
- B. The application for a special permit shall be granted only upon the organization acquiring a special permit from the state as provided in the Montana Alcoholic Beverage Code. The

applicant must specify the location and nature of the event and the period it is scheduled to be held. All applications will be signed by one or more of the association's officers, will be notarized and will be accompanied by the amount of the permit fee. The permit issued under this section will not authorize the sale of beer or wine for a longer period than one day before the event is scheduled to begin and one day after the event has been concluded.

#### **Section 4**

That section 4.02.070, Bozeman Municipal Code is revised as follows:

##### **Sec. 4.02.070. - City license not transferable; exceptions.**

No license issued under the provisions of this article shall be transferable except as provided in the Montana Alcoholic Beverage Code, and then only after such transfer is approved by the city manager ~~commission~~ after written application for permission to transfer. Such application shall be in writing, and the same form as in the original business license application in accordance with section 4.02.030.

#### **Section 5**

That section 4.02.100, Bozeman Municipal Code is revised as follows:

##### **Sec. 4.02.100. - Inspection and control of premises.**

Any business licensed under this article shall at all times be subject to the police inspection and control of the city. The licensee, and/or employees of such licensee, hereunder, shall at all times permit any member of the city commission, city manager, city attorney, city treasurer, code compliance officer, ~~director of administrative services,~~ health officer, fire department, and member of the police force of the city, and they and/or any of them shall have the right to enter the premises where such licensed business is conducted for inspection of such premises and every part thereof, and for exercise of police supervision, inspection and control thereof, including arrests, so long as any business licensed under this article shall be conducted therein or in any part thereof. Denial, restriction or obstruction of such right or permission shall be deemed a violation of this article,

make any license granted hereunder subject to revocation or suspension forthwith, and subject the offender to the fines and penalties herein provided.

### **Section 6**

That section 4.02.110, Bozeman Municipal Code is revised as follows:

#### **Sec. 4.02.110. - Violation; penalty.**

Every person, including those employed in or in connection with any business licensed under this article, who is convicted in a court of competent jurisdiction ~~the police court of the city~~ of any violation of this article shall be subject to a fine of not more than \$300.00, or imprisonment in the ~~city or county~~ jail for not less than ten days nor more than six months, or both such fine and imprisonment; and in addition to such fine and imprisonment, or either, if the convicted person is a licensee under this article, or an employee of such licensee engaged in or about, or in connection with, the conduct or operation of the business so licensed, such license may be revoked or suspended, as provided in section 4.02.080.

### **Section 7**

That section 4.03.030, Bozeman Municipal Code is revised as follows:

#### **Sec. 4.03.030. - ~~Same~~—Application; form, contents and filing.**

- A. Applications for license under the provisions of this article shall be in writing, signed and sworn to by the applicant before a person authorized to administer oaths, ~~and be substantially in the following form:~~

~~City of Bozeman, Montana~~

~~Application for License to Sell Liquor at Retail Under Chapter 4, Article 3 of the  
Bozeman Code~~

Date \_\_\_\_\_

I, \_\_\_\_\_, hereby make application to the city commission of the City of Bozeman for a license to sell liquor at retail in the City of Bozeman at the premises known and described as \_\_\_\_\_, in said City, and I hereby state:

That I am the holder of a license from Montana Department of Revenue to sell liquor at retail in the City of Bozeman at the above described premises.

That said license is dated \_\_\_\_\_, 20\_\_\_\_\_, and is Numbered \_\_\_\_\_.

That said license is in full force and effect and has not been suspended nor revoked.

I agree that if the license hereby applied for is granted it:

1. ~~Shall expire with the expiration of the license from Montana Department of Revenue in this application above described.~~
2. ~~Shall be subject to all of the provisions of the Montana Alcoholic Beverage Code, all rules and regulations adopted and promulgated by Montana Department of Revenue pursuant to the provisions of such code, all of the provisions of chapter 4, article 3 of the City of Bozeman Code under which this application is made, and all other applicable ordinances of the City of Bozeman where not in conflict with the provisions of said Montana Alcoholic Beverage Code and said rules and regulations.~~
3. ~~Shall stand suspended or revoked upon suspension or revocation of the license from the Montana Department of Revenue, hereinabove referred to and described.~~
4. ~~Shall not be transferable.~~

The fee of \$ \_\_\_\_\_ for the license hereby applied for accompanies this application and is tendered herewith.

(Signed) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_

B. The application for license shall be on a form adopted by the city manager.

~~Such application shall be filed with the department of administrative services and be presented to the commission at the next available meeting.~~

## Section 8

That section 4.03.040, Bozeman Municipal Code is repealed in its entirety.

## **Section 9**

That section 4.03.060, Bozeman Municipal Code is revised as follows:

### **Sec. 4.03.060. - Violation; penalty.**

Every person, as defined by the Alcoholic Beverage Code, who violates any of the provisions of this article, shall, upon conviction thereof in a court of competent jurisdiction ~~the police court~~, be fined in a sum not exceeding \$300.00 or by imprisonment in the city or county jail for not exceeding 90 days, or by both such fine and imprisonment; and the judge ~~police magistrate~~, upon such conviction, shall certify the same forthwith to the city treasurer ~~commission~~ who may, in its discretion, forward such certificate to the Montana Department of Revenue with a request that the license issued to the offender by such board be suspended or revoked, pursuant to the provisions of Montana Alcoholic Beverage Code applicable to such case.

## **Section 10**

### **Repealer.**

All provisions of the ordinances of the City of Bozeman in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other provisions of the ordinances of the City of Bozeman not in conflict with the provisions of this ordinance shall remain in full force and effect.

## **Section 11**

### **Savings Provision.**

This ordinance does not affect the rights and duties that matured, penalties that were incurred or proceedings that were begun before the effective date of this ordinance. All other

provisions of the Bozeman Municipal Code not amended by this Ordinance shall remain in full force and effect.

## **Section 12**

### **Severability.**

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Bozeman Municipal Code as a whole.

## **Section 13**

### **Codification.**

This Ordinance shall be codified as indicated in Section 1 – 9

## **Section 14**

### **Effective Date.**

This ordinance shall be in full force and effect thirty (30) days after final adoption.



**PROVISIONALLY ADOPTED** by the City Commission of the City of Bozeman, Montana, on first reading at a regular session held on the 4<sup>th</sup> day of November, 2019.

  
CYNTHIA L. ANDRUS  
Mayor

ATTEST:

  
ROBIN CROUGH  
City Clerk

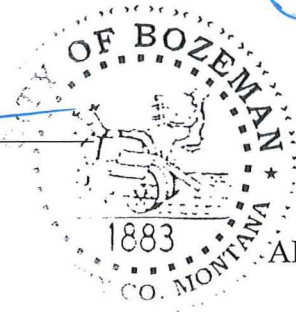


**FINALLY PASSED, ADOPTED, AND APPROVED** by the City Commission of the City of Bozeman, Montana on second reading at a regular session thereof held on the 18<sup>th</sup> of November, 2019. The effective date of this ordinance is December 18, 2019.


  
CYNTHIA L. ANDRUS  
Mayor

ATTEST:

  
ROBIN CROUGH  
City Clerk



APPROVED AS TO FORM:

  
GREG SULLIVAN  
City Attorney