

ORDINANCE NO. 1077

AN ORDINANCE CLARIFYING THE FEE STRUCTURE FOR ALCOHOL LICENSE RENEWAL AND THE METHOD FOR ISSUANCE OF ON-SALE AND OFF-SALE LIQUOR LICENSES ISSUED BY THE CITY OF YANKTON.

WHEREAS, the Yankton City Attorney and the City's Finance Office staff determined that current Ordinance 3-2 is does not clearly reflect the Commission's original intent to establish fees as prescribed therein only for the renewal of alcohol licenses (and not for the issuance of alcohol licenses); and therefore, a revised Ordinance 3-2 is necessary to clarify that such fees are for alcohol license renewal only with fees established in a manner corresponding with SDCL 35-4-2; and

WHEREAS, the City Commission has deemed it prudent and appropriate to establish a fair and competitive procedure to issue available on-sale and off-sale liquor licenses to maximize the revenue to be raised by the City of Yankton for the benefit of its citizens.

NOW THEREFORE, BE IT ORDAINED, by the Board of City Commissioners of the City of Yankton that:

Section 3-2 is hereby amended to read as follows:

Sec. 3-2. License Classification and Renewal Fees, fees.

The following classifications and fees are established for renewal of alcohol licenses in the City of Yankton: dealers in distilled spirits, wines and malt beverages:

- (a) On-sale dealer liquor license issued under SDCL 35-4-2(4): Any person who sells or keeps for sale any alcoholic beverages other than malt beverages or "wine only" for consumption on the premises where sold\$1,500.00.
- (b) Off-sale dealer liquor license issued under SDCL 35-4-2(3): Any person who sells or keeps for sale any alcoholic beverage other than malt beverages or "wine only" for consumption off the premises where sold \$500.00.
- (c) On- and off-sale wine and cider retailers license issued under SDCL 35-4-2(12): dealer in wine only \$500.00.
- (d) On- and off-sale malt beverage and South Dakota farm winery wine license issued under SDCL 35-4-2(16): \$300.00.
- (e) Any other alcohol license renewal or issuance fee shall be as prescribed by State Statute, or if not so prescribed, then as set by resolution of the Yankton Board of City Commissioners.

A new Section 3-23 is hereby added to the Yankton Municipal Code of Ordinances to read as follows:

Sec. 3-23. On-Sale and Off-Sale Liquor License Sealed Bid Issuance Procedures.

The following sealed bid procedure shall apply any time the Yankton Board of City Commissioners elects to issue one or more off-sale or on-sale liquor licenses that has become available to be issued per SDCL 35-4-10 (off-sale liquor licenses) or per SDCL 35-4-11 (on-sale liquor licenses):

- (a) The City shall cause to be published a notice of sealed bid auction in a legal newspaper with general circulation in the area, with the publication at least once not less than ten calendar days prior to the date of the sealed bid opening. The notice shall state the number of off-sale or on-sale liquor licenses to be sold by sealed bid, the time, date, and place for the opening of sealed bids, and that bids shall be made on a form available from the City. The notice shall also state that the City reserves the right to reject any or all bids and that a bidder must conform to the requirements of South Dakota law and Yankton City Ordinance to qualify as an alcoholic beverage licensee.
- (b) Sealed bids shall be made using a form provided by the city, which will require specifying the location where the on-sale liquor license or off-sale liquor license will be used and the amount of the bid for each specific license set for auction. Only one sealed bid will be accepted per location and per owner. The sealed bids must be filed with the City prior to the time and date specified in the notice. Each bid shall contain the bid form, along with a nonrefundable application fee in an amount set by resolution of the Yankton Board of City Commissioners. The City shall not accept any bids tendered to the City after the time and date specified in the notice.
- (c) On the date, time, and place for the opening of bids, all sealed bids will be opened, and bidders will be listed in sequential order from highest to lowest bid. The order for tie bids will be determined by the earliest date and time the bid was received by the City.
- (d) The Yankton Board of City Commissioners may establish by resolution a minimum bid for an on-sale or off-sale liquor license. In such event, a bid shall not be eligible unless the bid amount is equal to or greater than the minimum bid as set by such resolution. If the City receives no bids for an amount equal or greater than the minimum bid established by the Board of City Commissioners, the Board of City Commissioners may elect not to issue the unissued license, or may elect to modify the minimum bid amount and restart the sealed bid process as prescribed by this Ordinance. Any such minimum bid amount shall be included within the published notice of sealed bid auction required by this Ordinance.
- (e) The bidder providing the highest bid for a given license shall be notified in writing of their conditional award. The issuance of the license shall be conditioned upon the eligibility of the bidder to hold the license, suitability of the proposed premises upon which alcoholic beverages will be sold, active use of the license within 120 calendar days of issuance, and compliance with all other state law and city ordinance.

requirements and codes, including but not limited to then-applicable zoning, building, and maintenance codes. The Board of City Commissioners reserves the right to stipulate such other and further conditions for issuance of the license by resolution based upon suitable person and suitable location.

- (f) If no conditional use permit is required, conditionally awarded bidders must submit a completed uniform alcoholic beverage license application along with the liquor license issuance fee in the amount of the conditionally awarded bid, to the City Finance Office within ten (10) business days of the date of written notice of conditional award.
- (g) If a conditional use permit is required for the location of a conditionally awarded bidder, the conditionally awarded bidder must submit a conditional use permit application within fifteen (15) calendar days of the date of written notice of conditional award. The conditional use permit process must be concluded with final approval by the Yankton City Board of Adjustment within sixty (60) calendar days of the date of written notice of conditional award unless extended by resolution of the Yankton Board of City Commissioners. Upon receiving the conditional use permit, the conditionally awarded bidder must submit the uniform alcoholic beverage license application and the liquor license fee, in the amount of the conditionally awarded bid, to the city within ten (10) business days of receiving the conditional use permit.
- (h) If one or more of the highest bidders receiving a conditional award do not meet all conditions as prescribed in the ordinance, or if the Board of City Commissioners fails to approve the issuance based upon, the next highest eligible and acceptable bid for each such license may be conditionally accepted in the same manner as the prior higher bid(s). If a bidder voluntarily withdraws a conditionally awarded bid prior to submitting the uniform alcoholic beverage license application, that bidder shall be deemed ineligible to provide a bid for issuance of a future newly issued on-sale or off-sale liquor license from the City for a period of three (3) years.
- (i) After all new on-sale or off-sale liquor licenses have been approved (or if all bidders or bids have been rejected) by the Board of City Commissioner, the time period for executing these procedures shall be closed. Any remaining on-sale or off-sale liquor license bids shall be deemed ineligible for further consideration. Any additional on-sale or off-sale liquor licenses that may become available or any renewed or modified sealed bid auction if no license is issued in accordance with these procedures shall require a new sealed bid process as prescribed in the manner set forth in this Ordinance with a new published notice and all new sealed bids from all bidders.
- (j) Proceeds from the issuance of an on-sale or off-sale liquor license in accordance with this sealed bid process shall be deposited into the City's General Fund.
- (k) Substantial good faith compliance with the foregoing procedures is sufficient for the issuance of a liquor license in accordance with the sealed bid procedures prescribed by this Ordinance. No license issued by the City in accordance with this Ordinance shall be terminated or revoked due to failure by the awarded bidder or by the City to strictly

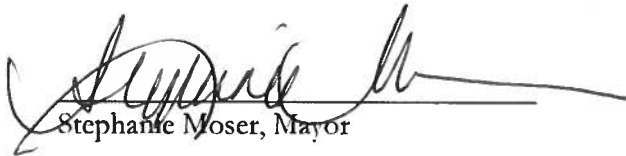
adhere to the procedures set forth in this Ordinance absent bad faith, misrepresentation, or fraud by the licensee.

The number of on-sale and off-sale dealers in alcoholic beverages other than wine retailers and malt beverage retailers and dealers licensed by the city shall not exceed the maximum number allowed by SDCL 35-4-10 (off-sale liquor license limit) or SDCL 35-4-11 (on-sale liquor license limit).


Savings Clause. Should any section, subsection, clause, term, or provision of this Ordinance be declared by the Court to be invalid, such invalidity shall not effect the validity of the remainder of the Ordinance as a whole, or any other part thereof, other than the part so declared to be invalid.

Dated this 22nd day of January, 2024.

CITY OF YANKTON


Stephanie Moser, Mayor

ATTEST:



Lisa Yardley, Finance Officer
(SEAL)

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