

ORDINANCE NO. 1510

An ordinance amending and re-enacting Section 5-39, Article III, of the Code of the City of Jamestown, North Dakota, by expanding the entities permitted to obtain a temporary special alcohol permit in the City of Jamestown.

WHEREAS, the City of Jamestown has determined a temporary, special permit allowing certain licensees to dispense alcoholic beverages on a temporary basis at locations other than their own establishment and City owned buildings is appropriate;

WHEREAS, a number of businesses and fraternal organizations would like to dispense alcoholic beverages in their own establishment or at other locations for special events;

WHEREAS, the City of Jamestown recognizes licensees may desire to dispense such alcoholic beverages in City Parks;

WHEREAS, the City of Jamestown's Park and Recreation Department does allow alcoholic beverages on park property under specific circumstances;

WHEREAS, the City of Jamestown has determined it is in the best interest of City, businesses, non-profit entities, fraternal organizations, and individuals to allow for additional flexibility concerning the requirement that full-time peace officers be present at all special events; and

WHEREAS, the City has an interest in maintaining the safety and order at special events to be held within the City.

NOW, THEREFORE, be it ordered by the City Council of the City of Jamestown, North Dakota, that Section 5-39, be amended and re-enacted as follows:

**Sec. 5-39. –Temporary Alcohol Permits.**

A temporary, special permit may be issued to licensees currently holding a Class B, Class B-1, Class C, Class D, Class E, or Class F license which shall authorize the holder, at a location which is specifically designated in the temporary, special permit and is a location other than the licensees licensed premises, to dispense catered alcoholic beverages, "on-sale" only; to hold beer, wine, and sparkling wine demonstrations and/or tastings; or to engage in the "off-sale" of wine at special events by a domestic winery owner or operator.

**(1) Temporary, Special Catering Permit for the Sale of Catered Alcoholic Beverages in Private or Public Buildings.**

A temporary, special catering permit may be issued for the sale of catered alcoholic beverages, "on-sale" only, at an off-site premises specifically designated in the permit, subject to the following restrictions and conditions:

- a. A temporary, special catering permit may be issued for a period of time not to exceed fourteen (14) days.
- b. Except as provided in this section, a temporary, special catering permit shall not include days or times when the sale of alcoholic beverages is prohibited by state law and/or city ordinances.
- c. The temporary, special catering permit issued hereunder shall be for events held by individuals, governmental, fraternal, businesses, or other regularly organized nonprofit groups or societies.
- d. The permit holder must obtain and keep in effect off-premises alcohol liability insurance and provide the City proof of insurance with its temporary, special catering permit application.
- e. Persons under the age of twenty-one (21) years of age may be allowed to remain in the area of the event, or a portion thereof, where alcoholic beverages may be dispensed pursuant to the permit subject to the following conditions:
  - i. The area where persons under twenty-one (21) years of age must remain must be specifically set forth in the permit;
  - ii. Only employees of the qualified alcoholic beverage permit holder who are at least twenty-one (21) years of age may dispense alcoholic beverages;
  - iii. Subject to §5-6 of this Code, the area where persons under twenty-one (21) years of age may remain may not be the qualified alcoholic beverage permit holder's fixed or permanent licensed premises as shown on the state and local governing body's alcoholic beverage license issued pursuant to §5-02-01, N.D.C.C., and comparable city ordinance;
  - iv. No person under twenty-one (21) years of age within the area described in the permit may consume, possess, or receive alcoholic beverages.
- f. The permit holder shall not be permitted to provide on-sale alcoholic beverages at a site owned, leased, or operated by the permit holder.
- g. The off-site premises specifically designated in the temporary, special catering permit must be approved by the City Administrator.
- h. The off-site premises specifically designated in the temporary, special catering permit may be, but is not required to be a City owned-building. The off-site premises may also include City parks or other outdoor spaces. The City Administrator or City Council, as the case may be, may require any applicant to provide documentation showing the owner, property manager, or authorized person of the off-site premises' approval of the permit.

- i. All other city ordinances governing alcoholic beverages not in conflict with the provisions of this section shall apply to the permit holder and the off- site premises.

**(2) Temporary, Special Serving Permit for Beer, Wine, and Sparkling Wine Demonstrations and/or Tastings.**

A temporary, special serving permit may be issued to hold beer, wine, and sparkling wine demonstrations and/or tasting at an off-site premises specifically designated in the permit, subject to the following restrictions and conditions:

- a. A temporary, special serving permit may be issued for a period of time not to exceed three (3) days per event.
- b. Except as otherwise provided, a temporary, special serving permit shall not include days or times when the sale of alcoholic beverages is prohibited by state law and/or city ordinances.
- c. No permit holder shall be granted more than two (2) temporary, special serving permits per permit year.
- d. Only beer, wine, or sparkling wine may be dispensed under the temporary, special serving permit.
- e. There shall be no charge of any kind made by the permit holder.
- f. The temporary, special serving permit issued hereunder shall be for events held by individuals, governmental, fraternal, businesses, or other regularly organized nonprofit groups or societies.
- g. No person under twenty-one (21) years of age may be allowed in the location of the event as designated in the permit.
- h. The off-site premises specifically designated in the temporary, special serving permit must be approved by the City Administrator.
- i. The off-site premises specifically designated in the temporary, special serving permit may be, but is not required to be a City owned-building. The off-site premises may also include City parks or other outdoor spaces. The City Administrator or City Council, as the case may be, may require any applicant to provide documentation showing the owner of the off-site premises' approval of the permit.
- j. The permit holder must obtain and keep in effect off-premises alcohol liability insurance and provide the City proof of insurance with its temporary, special serving permit application.

- k. All other city ordinances governing alcoholic beverages not in conflict with the provisions of this section shall apply to the permit holder and the off-premises site.

**(3) Temporary, Special “Off-Sale” Permit for Domestic Wineries.**

A temporary, special “off-sale” permit may be issued in accordance with N.D.C.C. §5-02-01.1 and N.D.C.C. §5-02-01 to the owner or operator of a domestic winery for the “off-sale” of wine at a special event occurring within the City of Jamestown at an off-site premises specifically designated in the permit, subject to the following restrictions and conditions:

- a. The temporary, special “off-sale” permit shall be valid for no more than three (3) days per event.
- b. Except as otherwise provided, a temporary, special “off-sale” permit shall not include days or times when the sale of alcoholic beverages is prohibited by state law and/or city ordinances.
- c. No domestic winery owner or operator shall be granted more than two (2) temporary, special “off-sale” permits per permit year.
- d. The permit may be issued for a location other than the primary place of business of the permit holder and to a domestic winery owner or operator whose primary place of business is outside of the city.
- e. The off-site premises specifically designated in the temporary, special “off-sale” permit must be approved by the City Administrator.
- f. The off-site premises specifically designated in the temporary, special “off-sale” permit may be, but is not required to be a City owned-building.
- g. The permit holder must obtain and keep in effect off-premises alcohol liability insurance and provide the City proof of insurance with its temporary, special “off-sale” permit application.
- h. All other city ordinances governing alcoholic beverages not in conflict with the provisions of this section shall apply to the permit holder and the off-site premises.

**(4) Application requirements for temporary, special permits; security personnel; and fees.**

- a. An application for a permit must be filed by the permit holder with the City Administrator.

- b. The City Administrator shall be authorized, without action by the City Council, to grant permits upon receipt of an appropriate application. The City Administrator has discretion to refer the request for a permit to the City Council for action by the Council at its next regular or special council meeting or appropriate committee meeting.
  - i. The City Administrator or the City Council, as the case may be, shall deny an application that does not comply with this ordinance. Application approval is discretionary taking into account the location of the proposed premises, the proposed method of operation by the licensee, City's prior experiences with the particular licensee, and that approving the permit is consistent with the health, safety, general welfare, morals, comfort, good order, and peace and quiet of the general public or of those persons who work, live, transact business or participate in recreation in the vicinity of the premises sought to be licensed.
  - ii. The City Council may, from time to time, restrict the number of temporary permits issued within the City in any manner consistent with maintaining the health, safety, general welfare, morals, comfort, good order, and peace and quiet of the general public. This restriction may include, but not is limited to, the number of permits issued per year, per day, or per location.
- c. Applications must be submitted at least ten (10) days prior to the first day of the event; however, the City Administrator has discretion to waive the ten-day period. Late applications will be subject to a surcharge. The surcharge shall be established by the City Council and may be revised from time to time by resolution.
- d. All applications for a permit shall contain the following:
  - i. The name of the permit holder;
  - ii. The type of alcohol license issued by the City of Jamestown the permit holder currently holds;
  - iii. The type of event for which the permit is desired;
  - iv. Whether the permit is for a catered event; a beer, wine, and sparkling wine demonstration and/or tasting; or for a domestic winery to engage in the "off-sale" of wine at special events;
  - v. The date(s) and time(s) for which the permit is desired;
  - vi. Whether the permit is requested for the sale of all alcoholic beverages, beer, wine, or any combination thereof;

- vii. The specific location at which the event will take place, including a diagram of the area to be permitted. The City Administrator or City Council, as the case may be, may require any applicant to provide documentation showing the owner, property manager, or authorized personnel of the off-site premises' approval of the permit;
  - viii. A statement granting consent to any police officer, sheriff, any peace officer of the state, or any duly authorized representative of the city to enter upon the premises listed in the permit for inspection of the premises, and that the permit holder seeking the permit waives all rights, constitutional or otherwise, against unreasonable searches or seizures, and further conditions that any alcoholic beverage found upon such premises or any property found therein held in violation of the laws of the state or of this chapter may be seized and taken away by such officer;
  - ix. A statement accepting all responsibility and liability for enforcement of City and State of North Dakota liquor laws regarding dispensing of alcoholic beverages during the time of the special permit; and
  - x. Any other information requested at the discretion of the City Administrator and/or City Council.
- e. For temporary, special catering permits, in addition to all other application requirements, the application must also contain:
- i. The location where persons under the age of twenty-one (21) years of age must remain during the event; and
  - ii. The individual, governmental, fraternal, business, or other regularly organized nonprofit group or society for who the permit is being sought.
- f. For temporary, special serving permits, in addition to all other application requirements, the application must also contain:
- i. Any previous temporary, special serving permits issued for the permit year; and
  - ii. The individual, governmental, fraternal, business, or other regularly organized nonprofit group or society for who the permit is being sought.
- g. For temporary, special "off-sale" permits, in addition to all other application requirements, the application must also contain:
- i. Any previous temporary, special "off-sale" permits issued for the permit year; and

- ii. If the domestic winery's primary place of business is outside of the City, a copy of the owner's or operator's city, county, and/or state license.
  
- h. Security personnel shall be on the premises in such numbers as to ensure the safety of patrons and to maintain order on the premises as determined in conjunction with the Chief of Police or authorized designee. The Chief of Police or authorized designee has discretion to require a certain number of Security Personnel as a condition of approval for a permit under this section. Security personnel, may, but are not required to be full time police officers. Security must be present at all times alcohol is dispensed. Alcohol may not be dispensed after 2:00 a.m.
  
- i. The fee for a temporary, special permit shall be established by the City Council and may be revised from time to time by resolution.

ATTEST:

Sarah Hellekson, City Auditor

APPROVED:

Dwaine Heinrich, Mayor

Introduced by Council Member Phillips  
Seconded by Council Member Buchanan  
First Reading: June 26, 2018  
Second Reading: July 26, 2018  
Final Passage: July 26, 2018

Roll Call No. 5 showed: 5 ayes, 0 nays, 0 absent.