

ORDINANCE No. 529

AN ORDINANCE AMENDING TITLE 8 OF THE 2020 REVISED ORDINANCES OF THE CITY OF HILLSBORO.

Be it ordained by the City Commission of the City of Hillsboro, State of North Dakota:

Section 8.0629 of Title 8 of the 2020 Revised Ordinances of the City of Hillsboro is hereby adopted to read as follows:

SECTION 8.0629

8.0629 Outdoor Drinking Facilities ~~(Beer Gardens)~~

1. Outdoor drinking facilities shall be operated by an attached establishment maintaining a current City on-sale beer ~~and-or~~ liquor license.

a. There shall be two types of Outdoor Drinking Facilities:

i. Beer Gardens

ii. Patio

~~a.b.~~ The establishment shall abide by all rules and regulations as set forth by the North Dakota Century Code and any city ordinance involving the sale of alcoholic beverages.

~~b.c.~~ No person other than the business owner or an employee of the business shall serve any alcohol consumed on-site.

~~e.d.~~ The square footage of the outdoor drinking facility shall not exceed one-half (½) of the establishment's current indoor square footage and may not extend more than a combined total of fifty (50) feet parallel to the street beyond the sidewalls of the attached establishment, as determined by the Planning and Zoning Commission.

~~d.e.~~ The ratio of outdoor seats to indoor seats shall not exceed one (1) outdoor seat for each two (2) indoor seats.

~~e.f.~~ The property owner shall daily maintain all areas adjacent to and including areas where tables and chairs are located in a clean and sanitary manner including the provision of appropriate trash receptacles.

- i. This shall include sweeping any adjacent right-of-way where the outdoor drinking facility is located and the immediate clearing of any food debris, broken glass and other trash. Materials associated with the bar shall be removed from the right-of-way by sweeping and picking up or vacuuming.

- ii. Debris shall not be swept, washed, hosed, or blown into the adjacent streets and/or parking areas.

~~f.g.~~ ~~The outdoor drinking facility~~ Beer gardens shall have a minimum of two (2) exits to include the adjacent bar facility. The exits shall be clearly marked with signs at each exit. These signs will be no smaller than eight and one-half (8½) inches by eleven (11) inches and displayed at a height of five (5) feet from ground level. Patios shall have adequate exits as required by state fire code.

- i. ~~All exits~~The exit must remain unobstructed and clearly visible from all areas of the ~~beer garden~~outdoor drinking facility.
- ii. ~~The Any~~ exit mechanism must be easily operated and cannot require a key to exit.

h. Fence/Buffer

- i. ~~The outdoor drinking facility~~A Beer Garden shall be enclosed by a privacy fence at least eight (8) feet tall and shall be constructed in such a way as that no person may crawl through or under it or any beverages may be passed to the other side.
- ii. A Patio shall be effectively partitioned by a permanent fence or other permanent device designed and intended to separate the patio from passersby. Such fence or other enclosure shall allow for clear delineation between the patio area and any City right-of-way, including streets and sidewalks, and between the patio area and any neighboring properties. Such partition shall restrict entrance from outside the patio, other than through the designated entrances and exits of the patio.
- iii. The City Commission may grant a variance to allow for temporary fencing or other enclosure to accommodate new construction patios. Such variance shall be limited to six (6) months, at which point permanent partitioning shall be required.

i. Lighting and Age Restrictions

- i. Outdoor drinking facilities shall follow the age requirements as set forth in Section 8.0620.
- ii. The outdoor drinking facility~~Beer Gardens~~ must be properly lit as to ensure no dark areas within where persons under the age of twenty-one (21) may confine themselves.
- iii. Patios shall only be used as an outdoor, family-friendly restaurant area.

~~g.~~j. Outdoor music/entertainment

- i. All live outdoor music and entertainment, including, but not limited to, live bands or disc jockeys, must end at or before 1:30 a.m., and may only be held after obtaining two (2) times per year at each establishment through permits issued by the City.
- ii. Music played in the outdoor drinking facility through jukebox speakers or otherwise shall be allowed from 12:00 noon to 9:00 p.m., and shall be subject to the noise violation penalties listed in the following section.

k. All outdoor drinking facilities must close by 1:30 a.m. Hours of Operation:

- i. Beer Gardens may be open when the bar is open until 1:30 a.m.
- ii. Patios may be open when the bar is open and available to serve food and shall close one hour after the end of food service by the bar but no later than 1:30 am.

l. Outdoor Events

- i. Liquor establishments may utilize outdoor seating, and outdoor alcohol and food service for community events. Such events must have food available and an employee in the outdoor area serving and monitoring the customers at all applicable times.

ii. The events must be for a community, charitable, civic, philanthropic, religious, or other similar purpose.

iii. Requests for events must be presented to the City Auditor for approval, who is hereby authorized to approve such outdoor events. The City Auditor may defer approval of any outdoor event to the City Commission.

2. Penalties:

a. Noise Violations

- i. 1st of night — Bar is warned
- ii. 2nd of night — Outdoor drinking facility is closed for the night

b. Other Violations

- i. Failure of a licensee to comply with the conditions for issuance of an outdoor drinking facility license, as determined by law enforcement, may, after notice and opportunity to be heard, result in immediate suspension or revocation of the license or refusal to renew the license. Violation hereof shall be an infraction punishable by a penalty of one thousand dollars (\$1,000.00) per violation. Each day of a violation shall be considered a separate offense.
- ii. The termination or suspension of an establishment's liquor license, for any reason, shall cause the outdoor drinking facility license to also terminate or be held in suspension.

~~iii. The outdoor drinking establishment must be inspected and approved of by law enforcement.~~

3. Approval Procedure:

a. The establishment shall provide a drawing of proposed locations of tables, chairs and partitions to designate the proposed outdoor drinking area.

b. The outdoor drinking establishment must be inspected and approved of by law enforcement.

c. The City Commission will review and decide whether to approve the application.

~~b.d.~~ The establishment will provide any information requested by the City to ensure compliance with conditions and regulations of outdoor drinking area.

~~e.e.~~ The outdoor drinking facility license shall expire at the same time as all other liquor licenses.

~~d.f.~~ The establishment shall pay for the outdoor drinking facility license at the amount of one hundred fifty (\$150.00) per year. This amount will be added to the current cost of the establishment's annual liquor license and will be due at the time of the establishment's license renewal. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of days which said license will be in effect.



Levi Reese, President of Board of City
Commissioners

ATTEST:



Ashley Frederick, City Auditor

First Reading Date: June 21, 2022

Second and Final Reading: July 18, 2022