# City of Kramer Municipal Code

**Chapter 10 -** **Regulation of the Sale and Consumption of Alcohol and Alcoholic Beverage in the City of Kramer.**

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**Section 1 – Definitions.** For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Alcoholic beverages” shall mean any liquid suitable for drinking by human beings, which contains one-half (½) of one (1) per cent or more of alcohol by volume.

“Beer” shall mean any malt beverage containing more than one-half (½) of one (1) per cent of alcohol by volume.

“Growler” shall mean a professionally sanitized and sealed glass bottle with a capacity not to exceed sixty-four (64) ounces filled by a licensee or an employee of a licensee with beer from a keg procured or produced by the licensee in accordance with applicable laws.

“Liquor” shall mean any alcoholic beverage except beer.

“Licensed premises” shall mean the premises on which beer, liquor, or alcohol beverages are normally sold or dispensed and must be delineated by diagram or blueprint which must be included with the license application or the license renewal application.

“Off-sale” shall mean and include the sale of alcoholic beverages in the original package, or in a growler as defined in this section, for consumption off or away from the licensed premises where sold, including permitted deliveries.

“On-sale” shall mean and include the sale of alcoholic beverages for consumption on the licensed premises where sold.

“Package and original package” shall mean and include any container or receptacle holding alcoholic beverages which is corked or sealed by the manufacturer and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser; provided, however, that the filling of a growler, as defined in this section, shall not constitute the breaking of a package under this definition.

“Person” shall mean and include persons, partnerships, unincorporated associations, and corporate bodies.

"Public place" shall mean an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one (1) or more individuals for a private gathering or other personal purpose.

“Sale” shall mean and include any transfer, exchange, or barter in any manner or by any means whatsoever for consideration and includes all sales made by any person, whether principal proprietor, agent, servant, employee or corporation.

“Sell at retail or sale at retail” shall mean a sale to a consumer for use or consumption and not for the purpose of resale in any form.

“Sparkling wine” shall mean wine made effervescent with carbon dioxide.

“Twenty-one years of age” shall mean it is after 8:00 a.m. on the date twenty-one (21) years after a person's date of birth.

**“**Wine” shall mean the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four (24) per cent alcohol by volume.

**Section 2 – Regulation of Possession in Public - Age**

**10.2.** Be it ordained by Kramer City Council of the City of Kramer, North Dakota declares this ordinance and its provisions are an exercise of the police power directly affecting and designed to promote the peace, safety, good order, health, and well-being of the people of this city. This ordinance shall apply to all territory within the City of Kramer and exercise police jurisdiction as defined by law.

**10.2.1.** **Open containers and public consumption limited.**

No owner, manager, or person having control of any public place shall serve, permit to be served, or permit any person to drink alcoholic beverages in such place, unless such place has been duly issued an on-sale or other appropriate license or special permit under this chapter.

No person shall mix, prepare, serve, or consume alcoholic beverages in any public place unless such place has been duly issued an on-sale or other appropriate license or special permit under this chapter.

No person shall possess an open container holding alcoholic beverages, including a growler with a broken seal, in any public place unless such place has duly issued an on-sale or other appropriate license or special permit under this chapter.

**10.2.2. Unlawful possession or use of alcoholic beverages - Age**

An individual under twenty-one (21) years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one (21) years of age was in need of medical assistance due to alcohol consumption, provided the assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene.

**10.2.3. Persons under twenty-one not to enter upon licensed premises; exceptions**

Except as otherwise provided in this chapter, or under state law, no person under the age of twenty-one (21) may enter any premises licensed for the sale of alcoholic beverages.

**10.2.3.a.** No person in charge of a licensed premise shall permit any person under the age of twenty-one (21) to enter upon or to remain upon licensed premises within his control, subject to the following exceptions and any other exception provided in state law.

**10.2.3.b.** A person under the age of twenty-one (21) years of age may remain in a bar if separated from the designated area in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.

**10.2.3.c.** A person under the age of twenty-one (21) years of age may remain in a bar if the person is employed by the restaurant as a food waiter, food waitress, busboy or busgirl under the direct supervision of an individual twenty-one (21) years of age or older, and does not engage in the sale, dispensing, delivery, or consumption of alcoholic beverages.

**10.2.3.d.** A person who is eighteen (18) years of age or older but under the age of twenty-one (21) when employed by a bar licensed to sell alcoholic beverages to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one (21) or more years of age, but such person may not be engaged in mixing, dispensing, or consuming alcoholic beverages.

**10.2.3.e.** A person who is under twenty-one (21) years of age may attend an event where alcoholic beverages are sold in accordance with the conditions of an event permit issued by the City of Kramer.

**10.2.3.f.** At the discretion of the owner of the licensed premises, an individual under twenty-one (21) years of age may be permitted to enter and remain in a bar where alcoholic beverages are being sold and in the area of the eatery designated for the opening or mixing of alcoholic beverages if the individual is accompanied by a parent or guardian; is not seated at or within three feet of the bar counter; and does not enter or remain in the designated area after 10:00 p.m.

**10.2.4.** **Misrepresentation of age.**

No person shall misrepresent orally or in writing his own age or the age of any other person with the intent of causing another person to rely upon the misrepresentation, based on that reliance; To deliver an alcoholic beverage to a person who is less than twenty-one (21) years of age; or to allow a person who is less than twenty-one (21) years of age to enter or to remain on licensed premises under circumstances where it is unlawful for such person to do so. Under this section, the person making the misrepresentation and the person sought to be benefitted by the misrepresentation may be but need not necessarily be one (1) and the same person.

**Section 3 – Regulation by Date**

**10.3.** **Dispensing prohibited on certain days**

A person may not dispense or permit the consumption of alcoholic beverages on licensed premises between 2 a.m. and 8 a.m.

A person may dispense or permit the consumption of alcoholic beverages on licensed premises on Sundays from 8 a.m. to 12 a.m.

No alcoholic beverages can be sold or dispensed on Christmas Day, or after 6 p.m. on Christmas Eve.

**10.3.1. Prohibited Dispensing** **- Penalty.**

A person that violates Section 3 – Regulation by Date: is guilty of a class A misdemeanor as defined by NDCC 5-02-05 which the City of Kramer shall call upon the Bottineau County Sheriff to enforce.

**10.3.1.a.**

During such time of each day when, the sale or consumption of alcoholic beverages is not allowed on licensed premises, it shall be unlawful for any person to enter upon or to remain on licensed premises, except for the licensee; employees of the licensee and employees of a permitted gaming operation on the licensed premises while they are actively carrying on their duties with regard to the licensed business or gaming operation; A bona fide independent contractor who has entered into a contract with the licensee to perform work on the licensed premises, while actively performing such contract; and persons who are on the licensed premises pursuant to a special permit issued by the city council (which permit may contain such limitations and conditions as the council deems appropriate to impose).

**Section 4 – Licensure Required**

**10.4. Within the City of Kramer**

No person shall engage in the sale of alcoholic beverages at retail within the city without first obtaining a license, therefore.

**10.4.1.**

The license shall allow the sale and consumption of alcoholic beverages only on the premises to which the license specifically relates.

**10.4.2.**

No licensee shall be permitted to hold more than one (1) license under this Chapter per premises unless it is specifically authorized in this chapter.

**10.4.3.** **Classes of licenses; license fees; license restrictions; limitation on number of licenses.**

**10.4.3.a.** Retail beer. A retail beer license shall be for the on-sale and off-sale of beer.

**10.4.3.b.** Retail Beer Fee. The fee for a retail beer license on-sale and off-sale license shall be established by a resolution set forth by the Kramer City Council.

**10.4.3.c.** Retail liquor. A retail liquor license shall be for the on-sale and off-sale of liquor and wine.

**10.4.3.d.** Retail Liquor Fee. The fee for a retail liquor, wine on-sale and off-sale license shall be established by a resolution set forth by the Kramer City Council.

**10.4.4.** **Limitation on number of retail licenses.**

The total number of retail liquor licenses in the City of Kramer is based on the population (residents) of the City of Kramer. The population of the city shall be determined by the most recent official federal census. Based on 2020 census and the 2024 tax assessment of the City of Kramer, the Kramer City Council declares that only one (1) retail liquor license will be issued.

**Section 5 – Application for License**

**10.5.** Applicants for licensure must complete and submit the Application For License to Sell Alcohol and Alcoholic Beverages, State of North Dakota, County of Bottineau, City of Kramer(ckform-01), accompanied by the required annual fee no later than November 15th annually in order to be reviewed by the December city council meeting. No license shall be issued under this chapter unless the applicant files a sworn Application For License to Sell Alcohol and Alcoholic Beverages, State of North Dakota, County of Bottineau, City of Kramer(ckform-01), accompanied by the required annual fee as established by city resolution.

**10.5.1. Disqualifying circumstances.** The circumstances described hereafter disqualify an applicant for a license under this chapter:

**10.5.1.a.** The applicant or manager must not have been convicted of an offense determined by the attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer; or,

**10.5.1.b.** Following conviction of any offense, is determined not to be sufficiently rehabilitated under NDCC 12.1-33-02.1.

**10.5.2. License term.**

Beginning on January 1, 2025, the term of a license shall commence at 12:01 a.m. on 1 January 2025. The license shall expire at 11:59 p.m. of the 31st day of December. No refund will be given if a license is not used for the entire license term.

**10.5.3. City auditor submits permit application to the city council - approval.**

The city auditor shall submit the application for a new liquor license or the application for the renewal of an existing license, and the annual license fee, to the city council for its consideration during the December council meeting. Every application for a license required by this Chapter shall be approved by the city council before the license shall be issued.

**10.5.4. Identification number.**

Each license issued pursuant to this Chapter must be given an identification number and a permanent record thereof must be kept by the city auditor, showing the name and address of the licensee and the legal description of the place licensed.

**Section 6 – Requirements Prelude to License**

**10.6. Premises Health Inspection Requirements.**

No license shall be issued unless the premises to be licensed conform to all applicable sanitary, safety and health requirements as certified by the Bottineau County First District Health officials. The proof of inspection and the official report declaring the establishment meets standards as required by County and State law shall be part of the permit request.

**10.6.1.** Licensed premises which extend out-of-doors must meet the following requirements in respect to the portion located out-of-doors (hereafter called the "outdoors"):

**10.6.1.a.** The outdoors must be contiguous with the rest of the licensed premises (hereafter called the "indoors").

**10.6.1.b.** The periphery of the outdoors - to the extent not adjoining the indoors - must be enclosed with a wall or fence that is at least thirty-six (36) inches in height and said wall or fence may include a gate that can be used for entering or exiting outdoors.

**10.6.2. Fire Inspection of Licensed Premise Requirement.**

No license shall be issued or transferred by the city council, including any renewal licenses, for any establishment utilized for the sale of alcoholic beverages unless the building in which the business is carried on has been inspected in by the Rural Kramer Fire Department to ensure the establishment meets fire code. The inspection and associated report will be part of the license process and provided to the auditor at the time of submission.

**Section 7 - Suspension or revocation of a license.**

**10.7.** The Kramer city council shall have the power to suspend or revoke any license issued under the authority of this chapter for any of the following reasons:

**10.7.1.** The licensee violates the laws of this state or of any of the provisions of this chapter.

**10.7.2**. The licensee refuses to complete the license agreement, necessary inspections, and guidelines as outlined herein.

**10.7.3**. The licensee willfully makes a false statement or a misrepresentation as to a material fact in the application for the issuance or transfer of the license.

**10.7.4.** The licensee knowingly permits the occurrence of a pattern or practice of disorderly or immoral acts upon the licensed premises.

**10.7.5**. The licensee does not conduct the activity for which the license was issued at the licensed premises for a period of twelve (12) consecutive months.

**10.7.6.** The licensee does not hold a necessary permit or license issued by Bottineau County and/or the State of North Dakota which license, or permit is required by those governmental entities as a precondition to the carrying on by the license of the activity authorized by the City of Kramer license.

**10.7.7.** No license shall be suspended or revoked without providing the licensee with notice and an opportunity for a hearing before the city council regarding the suspension or revocation of the license. The city auditor shall provide the licensee with written notice of the date, time, and place of the hearing. The notice shall inform the licensee that its license may be suspended or revoked, and it shall set forth the factual allegations which form the basis for doing so under this section. The city auditor may provide notice by mailing a copy thereof to the licensee's last known address as indicated in the licensee's most recent application filed with the auditor under this chapter. The notice must be mailed at least five (5) days prior to the hearing, exclusive of the date of mailing and date of the hearing.

**10.7.8.** If the licensee does not appear at the hearing provided for in subsection 10.11.10., or if the licensee does not dispute them, the factual allegations in the complaint shall be deemed to be admitted. Otherwise, the City of Kramer shall have the burden of going forward with the evidence and the burden of persuasion as to any disputed issues of fact.

**10.7.9**. The decision of the city council shall be final for purposes of the legal doctrine which requires the exhaustion of administrative remedies as a prerequisite for judicial review.

**10.7.10.** The Bottineau County Sheriff will be responsible for conducting compliance checks to determine whether the licensees are in compliance with the provisions defined herein.

**10.7.11.** If the licensee admits a violation occurred, or fails to appear at the scheduled hearing relating to the alleged violation, or the Kramer City Council determines a violation as outlined herein occurred after a hearing, the licensee is subject to the following penalties, in addition to any other civil or criminal penalties a licensee may be subject to for violation of any provision of state or local law:

**10.7.11.a.** First violation: Letter of warning and $300.00 administrative penalty

**10.7.11.b.** Second violation: Business closed for three (3) consecutive days and $500.00 administrative penalty

**10.7.11.c.** Third violation: Business closed for seven (7) consecutive days and $1,000.00 administrative penalty

**10.7.11.d**. Fourth violation: Business liquor license shall be revoked

**10.7.11.e.** The foregoing penalties shall be for violations that occur within a period of 24 consecutive months commencing and running from the date upon which the first violation is committed (the "lookback period"),and are assessed in addition to any criminal penalties that may arise from the same violation. If any subsequent violation occurs within the last six months of the lookback period, the lookback period shall be extended for a period of six months from the date upon which of the subsequent violation is committed.

**10.7.12. No refund of fee when license is revoked.**

When a license issued pursuant to this Chapter is terminated or revoked for cause, the licensee or those claiming under him, shall not be entitled to any return of any portion of the license fee previously paid to the city.

**10.7.13.** **No license to be issued until five years after revocation.**

Where a license for any premises licensed pursuant to this Chapter has been revoked, no license shall thereafter be issued to the licensee for a period of five (5) years after revocation.

**Section 8 - Special permits - Fees**

**10.8.** A permit issued pursuant to NDCC 5-02-01.1. to allow a licensee to operate at premises other than the licensed premises to which the license relates, shall be issued administratively by the city auditor upon the following terms and conditions:

**10.8.1**. The payment by the applicant of a nonrefundable fee of twenty-five dollars ($25.00) as outlined in NDCC .

**10.8.2.** The submission of an application to the city auditor, at least ten (10) days prior to the event (not including the day of the event), by the applicant, with any information required by the auditor and a brief narrative explaining:

**10.8.2.a.** The nature of the occasion for the permit (e.g., wedding dance, trade show or promotion, etc.); and

**10.8.2.b.** The steps which will be undertaken by the permittee to restrict the sale to, and consumption of, alcoholic beverages by person under twenty-one (21) years of age at such occasion.

**10.8.2.c.** The written approval by the Bottineau County Sheriff of the issuance of the permit. The sheriff may elect to police event(s) covered by the special permit. If the sheriff determines police officer or licensed private security officers are needed to police the event(s), the licensee shall hire the required number of off-duty police officers to police the event(s). If the licensee retains off-duty police officers to police the event(s), the written approval for the special permit shall be contingent on the licensee paying the Bottineau County Sheriff the expense of any off-duty police officer required for the proper policing of the event(s) prior to the event(s) occurrence. No special event(s) shall be permitted to proceed unless the required number of on or off-duty police officers are identified in the permit request.

**10.8.2.d**. The city council may authorize an individual under twenty-one (21) years of age to attend the special event but may not authorize the consumption or possession of an alcoholic beverage by an individual under twenty-one (21) years of age.

**10.8.3. Saving Clause as to Constitutionality.**

The object sought by this enactment is to provide for the sale and regulation of alcohol and alcoholic beverages in the City of Kramer, and it is hereby declared that if any provision of the act in manner controvert the provisions of the Constitution of the State of North Dakota, that the remaining provisions would have been enacted by the people even though such provisions had been eliminated from the Act. Hence if any of the provisions are found to be in violation of the Constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

**10.8.4. Date of Authorization**

This municipal Chapter requires two readings, a vote of approval by the Kramer City Council, and it shall then become effective on the date of publication in the Bottineau Courant.

**10.8.5**. **Supremacy Clause.**

This ordinance supersedes all previous ordinance and amendments and negate all and any previous contracts and agreements, written or spoken, concerning the sale of alcohol and alcoholic beverages within the City of Kramer.

Attorney Review

Date of First Reading:

Date of Second Reading:

Council Vote:

Date of Publication in Bottineau Courant:

Approved this day

Mayor/Council President: Auditor Attests