

## **Special City Council Agenda**

City Council Chambers, City Hall, 612 N. Main Street

April 9, 2018

*Committee Meetings (if any) will be first; immediately followed by the City Council Meeting.*

**1. 6:00 P.m. Call To Order**

**2. Pledge Of Allegiance**

**3. Roll Call**

**4. Second Reading/Adoption Of Ordinance #O2018-04, Amending And Repealing Certain Liquor Control Provisions**

Documents:

[AGENDA ITEM- ORDINANCE O2018-04, AMENDING AND REPEALING CERTAIN PROVISIONS ON LIQUOR CONTROL.PDF](#)

[ORDINANCE O2018-04, AMENDING AND REPEALING CERTAIN LIQUOR CONTROL PROVISIONS.PDF](#)

**5. Motion To Approve, Request Public Comment, Roll Call**

**6. Motion To Adjourn**

Individuals with disabilities who require special assistance to take part in this meeting may contact one of the following at City Hall (605) 995-8420 at least 24 hours prior to the meeting with requests for assistance: Human Resources Officer, Finance Officer, Public Works Director, or City Administrator.

# CITY OF MITCHELL

City Council Meeting  
Agenda Item Request



*The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting*

Meeting Date Requested:  Requested By:

Desired Action of City Council:  Authorization  Approval  Resolution  
 Ordinance  Citizen Request  Discussion

Amount Budgeted in current fiscal year for this item (if applicable):

Agenda Item:

Explanation/Background of Agenda Item Requested:

The State Legislature made numerous changes to state law on alcohol licensing and control this year. These changes require the City to take immediate action to modify its ordinances in order to prevent existing businesses from having to discontinue their current operations.

The root of this issue stems from the state's elimination of several classes of alcohol licenses. Mitchell has 18 businesses that utilize these soon to be discontinued licenses. The state's solution for the old license holders on a statewide level was to expand the definition of another license class and have old license holders apply for a new license in that expanded class.

However, Mitchell has a cap on this class of licenses (RB) and is, to the state's knowledge, the only City to have such a cap. The first change is thus to eliminate this cap on RB licenses. But, this means that some of these old licensees will now have an on-off sale license when they previously only had off-sale. This creates conflict with the way other ordinances were structured.

To eliminate those conflicts, several other changes are also necessary. This includes removing a restriction on having both an off-sale liquor and on-sale malt beverage license. Also repealing a section on patrons remaining on an on-sale premises during nonlegal operating hours and clarifying a section on what it means to have alcohol secured on premises.

There is also an issue as to video lottery as these old licensees would now qualify for video lottery where they did not before. We would also put a restriction on new RB licenses that they would not be eligible for video lottery (as was done with wine licenses in 2007).

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There are also some references to state law that must be updated in our section on special event licenses.

The final state law change addressed with this new ordinance is in relation to alcohol sales on Sunday, Memorial Day, and Christmas Day. Previously, state law prohibited sales on these days unless a City passed an ordinance allowing such sales. The state changed that so that alcohol sales are now allowed every day unless a City passes an ordinance restricting sales on such days. Mitchell previously allowed, by ordinance, malt beverage sales on Sundays and allowed alcohol sales on Memorial Day. We would be repealing these old provisions that are now redundant.

**ORDINANCE NO. O2018-04**

**AN ORDINANCE AMENDING AND REPEALING CERTAIN  
LIQUOR CONTROL PROVISIONS.**

WHEREAS the legislature of the State of South Dakota during its 2018 session did pass certain laws relating to the licensure and sale of alcoholic beverages; and

WHEREAS certain changes to the ordinances of the City of Mitchell are necessary in response to the changes to State law.

**BE IT ORDAINED BY THE CITY OF MITCHELL, SOUTH DAKOTA AS FOLLOWS:**

Section 1.

That the following sections of Mitchell City Code (MCC) Title 4, Chapter 2: Liquor Control be REPEALED:

Section 4-2-1 and all subsections;  
Section 4-2-2; and  
Subsections (B), (C), and (D) of Section 4-2-3.

Section 2.

That Subsection (A) of MCC Section 4-2-3 be AMENDED in its entirety so as to read as follows:

A. Securing Of Alcoholic Beverages During Nonlegal Operating Hours:

1. Definitions: As used in this subsection the following terms shall have the following meanings:

LICENSEE: The holder of any license within the city for the on-sale or off-sale of any alcoholic beverage, including malt beverages.

NONLEGAL OPERATING HOURS: The hours of each day and the holidays or other days during which a licensee is prohibited by state law from selling alcoholic beverages.

PREMISES: The location defined under a licensee's license.

2. Security Required: Every licensee shall secure all alcoholic beverages located, stored, or displayed on the licensee's premises during all nonlegal operating hours. For premises which remain open to the public during

nonlegal operating hours, secure shall mean to place in a separate container or room or a separately sealed or divided portion of a container or room in such a manner that unauthorized persons cannot gain access. For premises that are closed to the public during nonlegal operating hours, secure shall mean to ensure that all non-staff persons have vacated the premises and lock all entrance and exit points in a manner which prohibits non-staff persons from entering the premises.

### Section 3.

That MCC Section 4-2-6 be AMENDED by adding a new subsection to read as follows:

B. On-off sale malt beverage (RB) licenses issued with video lottery are limited to those licenses that were issued as of April 1, 2018, or were applied for on or before April 1, 2018; otherwise no on-off sale malt beverage (RB) licenses will be issued with video lottery. Any previously issued on-off sale malt beverage (RB) license that did not request its issuance with video lottery will not be authorized to request video lottery with said license.

### Section 4.

That Subsections (C)(2) and (C)(4)(a) of MCC Section 4-2-7 be AMENDED to read as follows:

“2. Special on-sale wine retailer's license: Available to any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to South Dakota Codified Laws 35-4-2(4), (6), or (12) or any farm winery license.”

and;

“a. Any civic, charitable, educational, fraternal, or veterans' organization or any licensee licensed pursuant to South Dakota Codified Laws 35-4-2(3), (5), or (12), or any farm winery license. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery license; or”

### Section 5.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

### Section 6.

The City Finance Officer shall cause notice of adoption of this ordinance to be published in the official newspaper and twenty (20) days after the completed publication, unless the referendum is invoked, this ordinance shall become effective.

Adopted by majority vote of the Mitchell SD City Council in regular session this \_\_\_\_  
day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Jerry Toomey – Mayor

Attest:

(seal)

\_\_\_\_\_  
Michelle Bathke – City Finance Officer

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Adoption: \_\_\_\_\_

Published: \_\_\_\_\_