

ORDINANCE NO. O2022-11

**AN ORDINANCE REVISING PROVISIONS OF MITCHELL CITY CODE
CHAPTER 4-2: LIQUOR CONTROL.**

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

Section 1.

That MCC Section 4-2-4 be REPEALED in its entirety and REPLACED to read as follows:

“4-2-4: Open Containers:

A. Generally:

1. Unless explicitly exempt from this section, no alcoholic beverage shall be sold, served for consumption, consumed, or possessed unless the seal of the original package remains unbroken upon:
 - a. any public street, highway, alley, sidewalk, boulevard, or other location within public right of way; or
 - b. any parking lot to which the public has access or which is open or available to the public within the city; or
 - c. any other place, whether in or out of a building, commonly and customarily open to or used by the general public.
2. Consumption of alcoholic beverages in the following areas shall be exempt from the restrictions of Section 4-2-4(A):
 - a. The area covered by a valid on-sale alcoholic beverage license, including special event on-sale alcoholic beverage licenses.
 - b. The area approved by the city council pursuant to an application for a consumption permit and, in such an event, the city council will approve the container that will be exempt for the purposes of the consumption permit.
 - c. The immediate area where alcoholic beverage product sampling is lawfully conducted pursuant to state law.
 - d. A City owned facility pursuant to a valid rental agreement allowing the consumption of alcoholic beverages.
 - e. Upon the waters or ice of Lake Mitchell.
 - f. At any city park land abutting the shoreline of Lake Mitchell.
 - g. At the Soccer Complex, Mitchell Activities Center, and Cadwell Sports Complex, and the parking lots adjacent thereto. However, the Park and Recreation Board may adopt additional rules for these locations for the purpose of preventing the consumption of alcoholic

beverages at or in connection with organized youth sporting activities. A violation of such Park and Recreation Board rule shall be deemed a violation of this ordinance.

- h. At any other city park land authorized for consumption by the Park and Recreation Board.
- i. At the Lakeview Golf Course. However, the Golf and Cemetery Board may adopt additional rules for the purpose of preventing the consumption of alcoholic beverages at or in connection with organized youth sporting activities. A violation of such Golf and Cemetery Board rule shall be deemed a violation of this ordinance.

- 3. No person shall use a glass alcoholic beverage container while consuming an alcoholic beverage at any location identified in Section 4-2-4(A)(1). However, the area covered by a valid on-sale alcoholic beverage license, including special event on-sale alcoholic beverage licenses, shall be exempt from this prohibition on the use of glass containers.

B. Liquor Establishments: No licensee holding any alcoholic beverage license of whatever nature shall permit any person to leave the premises for which said license is issued with any container on which the tap or seal has been broken and which contains any amount of an alcoholic beverage, except as authorized by the city council via consumption permit pursuant to South Dakota Codified Laws 35-1-5.3 and in connection with special events the city council will approve the container that will be used for the special event.”

C. Licensee Sealed Alcoholic Beverages: An alcoholic beverage licensee may allow a person to leave the licensed premises with an alcoholic beverage that is not factory sealed so long as the licensee complies with the provisions of this section and does not otherwise violate state law. A licensee may allow a person to leave the licensed premises with an alcoholic beverage for the purposes of bulk sales, off-premises consumption of a partially consumed alcoholic beverage purchased with a meal, or sale of an alcoholic beverage in conjunction with a to-go food order. If allowing a person to leave the licensed premises with an alcoholic beverage, the licensee shall seal the alcoholic beverage container in a manner which identifies the licensed premises sealing the beverage and provides clear visual evidence that the alcoholic beverage container has been unsealed. The seal shall also prevent any of the contents of the alcoholic beverage container from being consumed without breaking the seal.

Section 2.

That MCC Section 4-2-5(B) be AMENDED by adding the following language as a new subsection:

“3. A licensee who operates a tavern or bar may employ an underage person if such employment complies with South Dakota Codified Law 35-4-79.4. Such underage person may only be present on the licensee’s premises for work purposes.

Section 3.

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

Section 4.

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 _____, 2022.

Robert B. Everson, Jr. – Mayor

Attest:

(seal)

Michelle Bathke – City Finance Officer

First Reading: _____

Second Reading: _____

Adoption: _____

Published: _____