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## CHAPTER EIGHT

### BUSINESS REGULATIONS AND LICENSES

#### ARTICLE 1 - General Provisions

##### 8.0101 Licenses

Unless otherwise specifically provided, licenses and permits required for the carrying on of a business or trade within the City shall be applied for, issued, terminated and revoked according to the provisions of this article.

##### 8.0102 Licenses - Application

Any person desiring a license or permit under any ordinance of the City shall make a written application to the City therefore upon application blanks furnished by the city auditor and shall file the same with the city auditor. The application shall state the purpose for which the license or permit is desired, for what length of time, the place where the business is to be carried on and the proposed sureties on any required bonds.

##### 8.0103 Licenses - Granting

The city auditor shall receive applications for licenses and permits and grant the same in all cases where expressly authorized upon the terms and conditions specified by ordinance. If the city auditor is not authorized to grant any particular application for license or permit, the city auditor shall report such application to the next meeting of the City governing board for their action thereon.

##### 8.0104 Licenses - Term

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi-annual licenses or permits shall commence on the first day of January and expire on the last day of June or commence on the first day of July and expire on the last day of December.
3. No license or permit shall be valid until signed and sealed nor shall any person be deemed licensed until a license shall be duly issued to that person.
4. Each license shall be dated the day of issuance thereof; but if the applicant or applicants shall have been acting without a license, the license shall commence with the date business commenced. If the business calls for a yearly license, then a license shall commence on the first day of January in the year for which the license shall be issued.
5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and the license record.

##### 8.0105 Licenses - Not Transferable

No license or permit shall be assignable or transferable except by permission of the City governing body. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

##### 8.0106 Licenses - Revocation

All licenses granted shall be subject to ordinances in force at the time of issuing thereof or which may be subsequently passed by the City governing body. Any person who shall violate any provision of this article relating to his license may be proceeded against for any fine or penalty imposed thereby, and that person's license may be revoked or forfeited in the discretion of the City governing body or the court before which any action may be brought for the recovery of any fine or penalty.

Where not otherwise provided, any license may be revoked by the City governing body at any time for cause. "Cause" includes, but is not limited to, the following:

1. Violation of the laws of the State of North Dakota or any of the ordinances of the City dealing with or pertaining to the business or trade licensed.
2. The willful making of any false statement as to a material fact in the application for license.
3. Permitting any disorderly or immoral practices upon the premises where the licensee is licensed to carry on the business or trade.
4. The death of a licensee.
5. When the licensee ceases business at the location licensed.
6. When the licensee ceases to be a legal and bona fide citizen of the State of North Dakota.

When the license is terminated or revoked for cause, the licensee or those claiming under the licensee, shall not be entitled to any return of any portion of the license fee previously paid to the City.

#### 8.0107 Licenses - Posting of

All licenses and permits issued by the City for the operation of any business establishment, trade or any part of the operation thereof, shall be posted in a conspicuous place in the main business establishment. Where badges representing permits or licenses are issued to be worn by an individual, such licensee shall wear such badge during the normal course of employment for which said badge was issued.

#### 8.0108 Licenses - Short Term

No license, unless otherwise specified, shall be issued for a fractional part of the year, but shall relate back if taken out subsequent to the first day of January of each year.

#### 8.0109 Licenses - Enforcement

All city officials having duties to perform with reference to licensed premises, including all police officers, shall have authority to enter the licensed premises with or without a search warrant to check for violations of ordinances or state laws by the licensee.

Not Used - ARTICLE 2 - Transient Merchants

Not Used ARTICLE 3 - Hawkers and Peddlers

Not Used - ARTICLE 4 - Runners, Solicitors and Canvassers

ARTICLE 5 - Solicitation Without Invitation

8.0501 Solicitation Without Invitation Prohibited

The practice of going in and upon private residences or privately owned property in the City by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise, photographers and magazine and periodical subscription agents, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences or private property, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of or peddling or hawking the same or for the purpose of soliciting subscriptions to magazines or periodicals or for the purpose of taking photographs is hereby declared to be a nuisance and unlawful.

#### 8.0502 Enforcement

The chief of police and all police officers in the City are hereby required and directed to suppress the same and to abate any such nuisance as described in 8.0501.

### ARTICLE 6 - Alcoholic Beverages

#### 8.0601 Definitions

For the purpose of this article:

1. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
2. "Beer" means any malt beverage containing more than one-half of one percent of alcohol by volume.
3. "Licensee" means any person, firm, corporation, association or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" means any alcoholic beverage except beer.
5. "Person" means and includes any individual, firm, corporation, association, club, co-partnership, society or any other organization; and shall include the singular and the plural.
6. "Sale" and "sell" mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" includes any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 200 members at the time of application for license.
9. "Retail sale" means the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off-sale" means the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" means the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated

in such license and not elsewhere.

(see North Dakota Century Code section 5-01-01)

8.0602 Exceptions

1. This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.
2. This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:
  - a. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder.
  - b. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations.
  - c. Flavoring extracts, syrups and food products.
  - d. Scientific, chemical and industrial products; nor to the manufacturer or sale of said articles containing alcohol.

8.0603 License Required

No person shall sell at retail within the city limits of this City any alcoholic beverage without first having obtained a license therefore as herein provided. This section shall not apply to public carriers engaged in interstate commerce.

8.0604 Licenses - Terms of

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 31<sup>st</sup> day of December in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. 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.

8.0605 License - Qualifications for (Source: North Dakota Century Code section 5-02-02)

No retail license shall be issued to any person unless the applicant shall file a sworn application, accompanied by the required fee, showing the following qualifications:

1. Applicant, if an individual, must be a legal resident of the United States, a resident of the State of North Dakota and a person of good moral character.
2. If applicant is a corporation or limited liability company, the manager of the licensed premises and the officers, directors, shareholder, or members must be legal residents of the United States and persons of good moral character. Corporate and limited liability applicants must first be properly registered with the North Dakota Secretary of State
3. If applicant is a partnership, the manager of the licensed premises and all of the members must be legal residents of the United States and of good moral character. Partnership applicant must first be properly registered with the North Dakota Secretary of State.
4. Applicant or manager must not have been convicted of an offense determined by the North Dakota

Attorney General to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer.

5. Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
6. Taxes on property for which application for license is made must not be delinquent.
7. If applicant's business at the licensed location is to be conducted by a manager or agent, the manager or agent must possess the same qualifications required of the licensee.

#### 8.0606 Application for Liquor License

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the City governing body, filed with the city auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated, the purpose for which said corporation was incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.
7. Whether the applicant has ever had a license revoked or cancelled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling the same and the reason for such cancellation.
8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of place and courts in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation and the reasons assigned therefore.
10. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed and

the court in which convicted.

11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management or control of the establishment for which license is sought.
12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.
13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, within the borders of the United States.
14. The occupations that the applicant has followed during the past five years.
15. The names and addresses of at least three business references.
16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
17. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an employee, the name and address of the employer.
18. The classification of license applied for.
19. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body a list of the members belonging to such lodge or club.
20. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.

#### 8.0607 License - Application Fitness

The chief of police or such other person or officer as may be designated by the governing body shall, upon the filing of an application investigate the facts as stated in the application and the character, reputation and fitness of the applicant and shall report on said matters to the governing body.

#### 8.0608 License - Location of

No license shall be issued or transferred to any person, firm or corporation to engage in the sale of beer or alcoholic beverages within the City without approval as to the location of said licensed business by the City governing body. The application for approval shall be in writing and shall be filed with the City governing body. At the time of hearing, the City governing body shall in its discretion determine if said location is in harmony with the public interest and welfare of the community and shall consider among other things the following factors:

1. The convenience of police regulations.
2. Public health and sanitation.



3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on- or off-sale or both licensee.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

8.0609 License - Granting

After the City governing body has received the application as provided herein, they shall meet and consider the same. If the City governing body finds that the applicant meets the qualifications for a license and are satisfied as to the completeness and the accuracy of the information contained in the application, they may grant the license. If the City governing body finds that the applicant does not meet with the qualifications or they are not satisfied as to the completeness or accuracy of the information, they may request that the applicant supply more verified information to the City governing body or they may reject the application.

8.0610 License - Limit to One Location

Each license shall be valid only for the specific premises licensed.

8.0611 License - Posting of

License issued hereunder shall be posted in a conspicuous place in the premises for which the license has been issued.

8.0612 License - Transfer of

No license under the provisions of this article shall be transferable and any attempt to do so shall constitute a violation of the provisions of this article.

8.0613 License Fees - Disposition of

All license fees collected under this article shall be transferable to the city auditor and credited to the general fund of the City.

8.0614 Hours and Time of Sale - Penalty

Anyone who dispenses or permits the consumption of alcoholic beverages on a licensed premises after two a.m. on Sundays, before eight a.m. on Mondays or between the hours of two a.m. and eight a.m. on all other days of the week or who dispenses or permits such consumption on Christmas Day, after six p.m. on Christmas Eve, or provides off sale service after two a.m. on Thanksgiving Day is guilty of an offense which is punishable by a fine of up to five hundred dollars (\$500.00) and possible suspension or revocation of license. (Source: North Dakota Century Code sections 5-02-03 5-02-05, and 5-02-05.1)

8.0615 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of the licensee's place of business and is required to maintain order and sobriety in such place of business, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person.

#### 8.0615.1 Sunday Alcoholic Beverage Permit - Penalty

Anyone licensed by the City governing body to sell alcoholic beverages may apply to the City governing body for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to two a.m. on Mondays. The authority for issuing the permit rests solely with the City governing body. The fee for this permit is five dollars for each Sunday the licensee is allowed to sell alcoholic beverages. (Source: North Dakota Century Code sections 5-02-03, 5-02-05, and 5-02-05.1).

Anyone who dispenses, sells or permits the consumption of alcoholic beverages in violation of this ordinance, or who furnishes false or misleading information in applying for a permit is guilty of an offense which is punishable by a fine of up to five hundred dollars (\$500.00) and possible suspension or revocation of license. (Source: North Dakota Century Code Section 5-02-05.1)

#### 8.0616 Gambling Prohibited - Exceptions

No licensee hereunder shall be permitted to have or maintain on the licensed premises any gambling device, slot machine, punch board or any other machine or device of similar nature, nor shall gambling whether by cards, dice or otherwise, of any nature, be permitted upon the licensed premises. Any violation of this section shall be sufficient cause for the revocation of the license issued hereunder. This section shall not apply to gambling or games of chance conducted by a licensee under the authority of a valid and subsisting permit issued by the City governing body or license issued by the State of North Dakota.

#### 8.0617 Cashing Certain Checks Prohibited

No licensee hereunder shall cash any bank check, voucher, order or document of any kind drawn by a county welfare board or any state or federal agency in payment for wages made for work done on any so-called work relief project, or for relief purposes, which by its terms authorizes or permits any person presenting such bank check, voucher, order or document to receive payment of money.

#### 8.0618 Sales Prohibited - Persons

No licensee, his agent or employee shall sell any alcoholic beverages to a person under twenty-one (21) years of age, a habitual drunkard, an incompetent or an intoxicated person.

#### 8.0619 Minors in Licensed Premises

No licensee shall permit any person under twenty-one (21) years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under twenty-one (21) years of age may remain in a restaurant where alcoholic beverages are being sold if the restaurant is separate from the room in which alcoholic beverages are opened or mixed. (Source: North Dakota Century Code section 5-02-06)

#### 8.0620 Age Identification

Before selling alcoholic beverages to any person, or before determining whether any person shall remain upon the licensed premises a licensee, his agent or employee may require a statement in writing and signed by said person of such person's age. Any person who makes a false statement as to his or her age, or signs a name other than his own or her own to any such statement, shall be guilty of a violation of this article.

#### 8.0621 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited.

8.0622 Premises, Equipment of

Premises licensed hereunder for on-sale alcoholic beverages shall be equipped with tables, chairs, booths and stools in a sufficient number to accommodate reasonably the patrons.

8.0623 Closed or Screened Areas

No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths or other screened enclosures nor shall any screen, partition, curtain, blind or obstruction of any kind prevent a clear view at all times of all parts of the interior of the premises licensed. All booths located in such premises shall open directly into the main part of said premises and shall be accessible from the aisles therein.

8.0624 Purchase from Licensed Wholesaler

No licensee hereunder shall purchase, have or possess any alcoholic beverages other than those purchased from a wholesaler duly licensed by the State of North Dakota pursuant to the provisions of Title 5 of the North Dakota Century Code. Each licensee hereunder shall keep on file all invoices covering purchases of such alcoholic beverages showing the name and license number of the wholesaler. Such records shall be retained in the possession of the licensee and shall be at all times open to inspection by any police officer or peace officer of the State of North Dakota.

8.0625 Toilets Required

Premises where an on-sale license is granted must be equipped with adequate and sufficient lavatories and toilets, separately maintained for men and women, and kept in a clean and sanitary condition. The on-sale license may be revoked when the foregoing requirements, or any other health ordinance or regulation, are not at all times strictly observed.

8.0626 Deliveries - Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage to any person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

8.0627 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and terminated upon the happening of any one or more of the following contingencies:
  - a. The death of the licensee unless upon application to the City governing body by personal representative of the decedent, the City governing body consents to the carrying on of the business by the personal representative.
  - b. When the licensee ceases business at the location licensed, unless a new location has been approved.
  - c. When the licensee is adjudged bankrupt.
  - d. When the licensee has been convicted of the violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages or of a felony under the laws of the United States, the State of North Dakota or of any other state of the United States.

- e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
  - f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or revoked.
  - g. When the licensee ceases to be a legal bona fide resident and citizen of the State of North Dakota.
2. License issued pursuant to this ordinance may, in the discretion of the governing body, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:
    - a. When the licensee has been convicted of violating any of the provisions of this article.
    - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the City.
    - c. When the licensee, if an individual, or one of the partners, if the licensee is a partnership, or one of the officers or the manager if the licensee is a corporation, be convicted in the municipal court of the City of drunkenness or disorderly conduct, or if any appeal is taken from such conviction then when such conviction be sustained by the higher court or courts.
  3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and a license may also be cancelled and revoked or suspended at any time by the City governing body for any cause deemed by the City governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.
  4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through the licensee.

#### 8.0628 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed five hundred dollars (\$500.00). In addition, all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with Section 8.0628.

### ARTICLE 7 - Shows, Carnivals and Circuses

#### 8.0701 License Required

No person, firm, association or corporation shall exhibit or cause to be exhibited or assist in exhibiting any natural or artificial curiosity or conduct a circus, tent show, carnival or carnival show, continuous theatrical performance, or other like exhibition without first obtaining a license from the City.

### ARTICLE 8 - Validity

#### 8.0801 Validity

If any section, part, article or provision of this chapter or the application thereof to any person, firm, corporation or association or to any circumstances shall be held to be invalid for any cause whatsoever, the remainder of this ordinance or the application to persons, firms, corporations or circumstances shall not be affected thereby, and shall remain in full force and effect as though no part thereof had been declared to be invalid.

ARTICLE 9 - Penalty

8.0901 Penalty

Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00). The court may, in addition thereto, revoke the permit or license of such violator, or terminate or revoke all powers, rights and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation.