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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 a business or trade within the City shall be applied for, issued, terminated and revoked according to the provisions of this chapter.

8.0102 Licenses - Application

Any person desiring a license or permit under any ordinance shall make a written application 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 shall not feel authorized to grant any particular application for license or permit for any purpose not named by ordinance, the City Auditor shall report such application to the next meeting of the City Council for their action thereon.

8.0104 Licenses - Term

No license or permit shall be granted for a longer period than 1 year.

All yearly licenses, except liquor 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. No license or permit shall be valid until signed and sealed.

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.

8.0105 Licenses - Not Transferable

No license or permit shall be assignable or transferable except by permission of the City Council. 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 by the City Auditor.

No license shall authorize any person to act under it at more than 1 place at the same time, or at any other place except as approved by the City Council. 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

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 his license may be revoked or forfeited in the discretion of the City Council or the court before which any action may be brought for the recovery of any fine or penalty.

Any license may be revoked by the City Council at any time for cause. "Cause" shall include, but not be 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 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 - 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 by the licensee.

### **ARTICLE 2 - Transient Merchants**

#### 8.0201 Definitions

For the purpose of this article "Transient merchant" includes any person, individual, co-partnership or corporation, either as principal or agent, who engages in, does or transacts any temporary or transient business, either in one locality or in traveling from place to place selling goods, wares and merchandise who does not intend to become and does not become a permanent merchant of the City and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lots, tract, railroad car or motor vehicles for the exhibition and sale of such goods, wares and merchandise.

The person, individual, co-partnership or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.

Livestock, agricultural products and local non-profit entities are excluded from this section.

#### 8.0202 License Required

It shall be unlawful to do business as a transient merchant without having first secured a license therefore. For the purpose of this article, any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding 100 days shall be considered as a transient merchant, provided that peddlers shall not be considered transient merchants.

### 8.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business is hereby fixed by the Fees and Rates Resolution. (Source: North Dakota Century Code Section 51-04-09)

### 8.0204 License - Application for (Source: NDCC 51-04-02 and 51-04-07)

Applicants for license, whether an individual, co-partnership or corporation, shall file with the City Auditor a written application signed by the applicant if an individual, by all partners if a partnership or by the president if a corporation, showing:

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;

2. The name, present residence, present home address and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City;

3. The residence, business address and type of business in which applicant has been engaged in the previous 2 years;

4. The residence, business address and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous 2 years;

5. The place or places in the City, where it proposes to carry on business, and the length of time that said business shall be conducted;

6. The kind of business to be conducted;

7. The name and address of the auctioneer, if any, who will conduct the sale; and

8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale, the invoice value and quality of such goods, wares and merchandise, at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property to be sold are manufactured or produced, and where such goods or products are located.

9. A copy of the transient merchant license issued by the state of North Dakota under the rules and regulations contained in NDCC Section 51-04-02 and 51-04-07.

### 8.0205 Bond (Source: NDCC 51-04-03)

Before any license shall be issued to a transient merchant, the applicant shall file with the City Auditor a copy of the security bond or cash deposit paid to the Attorney General's Office pursuant to NDCC 51-04-03.

### 8.0206 Service of Process

Before any license as herein provided shall be issued for engaging in business as a transient merchant, such applicant shall file with the City Auditor a copy of the instrument appointing the Attorney General as the agent to accept issue of process or otherwise comply with the regulations set forth in NDCC 51-04-07.

### **ARTICLE 3 - Solicitation Without Invitation**

#### **8.0301 Solicitation Without Invitation Prohibited**

The practice of going in and upon private residences or privately owned property 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.

#### **8.0302 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.

### **ARTICLE 4 – Reserved for Future Use**

### **ARTICLE 5 – Reserved for Future Use**

### **ARTICLE 6 - Alcoholic Beverages**

#### **8.0601 Definitions**

For the purpose of this article:

1. “Alcoholic beverages” shall mean any liquid suitable for drinking, which contains one-half of one percent or more of alcohol by volume.
2. “Beer” shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.
3. “Licensee” shall mean any person, firm, corporation, association or club that shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. “Liquor” shall mean any alcoholic beverage except beer.
5. “Person” shall mean and include 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” shall 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” shall 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” shall include 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” shall mean the sale of alcoholic beverages for use or consumption and not for resale.

10. "Off-sale" shall mean 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" shall mean 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.

#### 8.0602 Exceptions

This article shall not apply to wines delivered to priests, rabbis and ministers for sacramental use.

This article shall not be construed to apply to the following articles, when they are unfit for beverage purposes:

1. Denatured alcohol produced and used pursuant to Acts of Congress and the regulations thereunder.
2. Patent, proprietary, medical, pharmaceutical, antiseptic and toilet preparations.
3. Flavoring extracts, syrups and food products.
4. 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 any alcoholic beverage without first having obtained a license. This section shall not apply to public carriers engaged in interstate commerce.

#### 8.0604 Licenses - Classes of - Fees

(Source: North Dakota Century Code Section 5-02-03)

The fees for each class of license shall be as set forth in the Fees and Rates Resolution.

For a population of less than 1500, as determined by the latest US census, there shall only be allowed 3 on and off sale licenses, and 1 off sale license.

For a population of 1500 or more, as determined by the latest US census, there shall be allowed 4 on and off sale licenses, and 2 off sale licenses.

An on and off sale license may be reduced to an on sale license by the City Council, but shall not allow an additional off sale license, and must be requested in writing acknowledging the same.

In the event of an annexation of property with an existing license holder, issued by proper authority and in good faith, that same class license shall be in addition to the above.

#### 8.0605 Licenses - Terms of

All licenses issued hereunder shall be for a period of not more than 1 year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than 1 year, any subsequent renewal thereof must be made for the full annual term.

If an application is made for license during the license year for the remainder of the year, the fees shall be proportional to represent the number of whole months that said license would be in effect.

#### 8.0606 License - Qualifications for

No retail license shall be issued to any person unless the applicant shall file an application 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, the manager of the licensed premises and the officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of State
3. If applicant is a co-partnership, all the members must be legal residents of the United States and of good moral character.
4. Applicant or manager must not have been convicted of a felony.
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. An application for a location on property excluded from property tax must agree to pay an annual Use Tax as determined by the City Assessor for the building using the same formula and procedures as determining the valuation and taxation of other commercial property.
8. If applicant's place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.

#### 8.0607 Application for Liquor License

Any person desiring a license to sell alcoholic beverages at retail shall make and present a written verified application to the City Council, 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, and if the applicant does not have title to said premises, the name and address of the owner.
5. Whether there are any delinquent taxes against the premises.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the type of business and place, and the date the applicant first began to operate.
7. Whether the applicant has ever had a license revoked or cancelled, and if so, the date of cancellation, the place and authority canceling the same, and the reason.



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 date, 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 date of such revocation and the reasons assigned therefore.

10. Whether the applicant has ever been convicted of any other crime than stated above, 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.

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 City Council a list of the members.

20. A statement by the applicant that he consents to entry and inspection of the premises or any part thereof at any time by any police officer of this City or of the State of North Dakota.

#### 8.0608 License - Application Fitness

The chief of police shall, upon the filing of an application investigate the facts and the character, reputation and fitness of the applicant and shall report on said matters to the City Council.

#### 8.0609 License - Location of

No license shall be issued to any person, firm or corporation to engage in the sale of beer or alcoholic beverages without approval as to the location by the City Council. The application for approval shall be in writing and shall be filed with the City Council. At the time of hearing, the City Council 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 minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on- or off-sale or both licenses.
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.

#### 8.0610 License - Granting

After the City Council has received the application, they shall meet and consider the same. If they find 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 they find 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 the applicant supply more verified information or they may reject it.

#### 8.0611 License - Limit to One Applicant

Not more than one license of each classification shall be issued or granted to any applicant; and each license shall be valid only for the specific premises licensed except for when an off-premise event permit is issued by the City Council. (Rev 8-1-17)

#### 8.0611 (1) Event permit authorized – Penalty.(Amended 6-19-17)

1. The local City Council may by permit authorize a qualified alcoholic beverage licensee licensed under this chapter to engage in the sale of alcoholic beverages at events designated by the permit. For purposes of this section, “qualified alcoholic beverage licensee” means a licensee in a city that imposed a city lodging restaurant tax on July 31, 1993, who paid such tax and who continues to pay any such tax imposed by the city or a licensee in a county, a licensee in a city that did not impose a city lodging and restaurant tax on July 31, 1993, or a tribal licensee. The fee for the local permit may be set by resolution at not more than twenty-five dollars. The permit may not be valid for a period greater than fourteen days and may include Sundays. The City Council may establish rules to regulate and restrict the operation of an event permit. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a permit is guilty of a class B misdemeanor.
2. The City Council may authorize persons under twenty-one years of age to remain in the area of the event, or a portion thereof, where beer, wine, or sparkling wine may be sold pursuant to the permit. However, this authorization must be subject to the following minimum conditions:
  - a. The area where persons under twenty-one years of age may remain must be specifically set forth in the permit;

- b. Only employees of the qualified alcoholic beverage licensee who are at least twenty-one years of age may deliver and sell the beer, wine, or sparkling wine; and
- c. Subject to N.D.C.C. Section 5-02-06, the area where persons under twenty-one years of age may remain may not be the qualified alcoholic beverage licensee's fixed or permanent licenses premises as shown on the state and local governing body's alcoholic beverage license issued pursuant to N.D.C.C. Section 5-02-01; and
- d. No person under twenty-one years of age within the area described in the permit may consume, possess, or receive alcoholic beverages.  
(Effective 8-1-2017)

8.0612 Public intoxication – Assistance – Medical care - Prosecution

A peace officer has authority to take any apparently intoxicated person to the person's home, to a local hospital, to a detoxification center, or, whenever that person constitutes a danger to that person or others, to a jail for purposes of detoxification.

A duly licensed physician of a local hospital or a licensed addiction counselor of a detoxification center has authority to hold that person for treatment up to seventy-two hours. That intoxicated person may not be held in jail because of intoxication more than twenty-four hours. An intoxicated person may not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided when the need is indicated.

Upon placing that person in a hospital, detoxification center, or jail, the peace officer shall make a reasonable effort to notify the intoxicated person's family as soon as possible. Any additional costs incurred by the city or county on account of an intoxicated person shall be recoverable from that person.

No person may be prosecuted in any court solely for public intoxication. Law enforcement officers may utilize standard identification procedures on all persons given assistance because of apparent intoxication.  
(Source NDCC 5-01-05.2)

8.0613 Hours and Time of Sale (Revised 6-19-17)

A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or on Christmas Day, or after six p.m. on Christmas Eve. In addition, a person may not provide off-sale after two a.m. on Thanksgiving Day or between two a.m. and noon on Sundays. A person who violates this section is guilty of a Class A misdemeanor. (eff 8-1-17)

8.0614 Bottle Clubs Prohibited

Any person operating an establishment whereby persons are allowed to bring their own alcoholic beverages on the premises where the proprietor sells soft drinks, mix, ice, or charges for bringing such beverages on the premises, is guilty of an offense.

8.0615 Licensee's Responsibility

Every licensee is responsible for the conduct of his place of business and is required to maintain order and sobriety, permitting no disorderly conduct on the premises. Alcoholic beverages shall not be served to any intoxicated person nor shall any intoxicated person be permitted to remain upon the premises.

8.0616 Sunday Alcoholic Beverage Permit (Repealed 6-19-17 effective 8-1-17)

#### 8.0617 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, and such license shall be revoked upon conviction of any such violation. 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 Council or license issued by the State of North Dakota.

#### 8.0618 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.

#### 8.0619 Sales Prohibited - Persons

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

#### 8.0620 Minors in Licensed Premises

No licensee shall permit any person under 21 years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed thereon, except that a person under 21 years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian. (Source: North Dakota Century Code Section 5-02-06)

#### 8.0621 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 chapter.

#### 8.0622 Street Sales Prohibited

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

#### 8.0623 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.

#### 8.0624 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.

#### 8.0625 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 by him 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.

#### 8.0626 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.

#### 8.0627 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 provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

#### 8.0628 Termination or Revocation of Licenses

Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies:

1. The death of the licensee unless upon application to the City Council by personal representative of the decedent, the City Council shall consent to the carrying on of the business by the personal representative.

2. When the licensee ceases business at the location licensed, unless a new location has been approved.

3. When the licensee be adjudged bankrupt.

4. 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.

5. When the licensee ceases to possess the qualifications required of an applicant for a license.

6. 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 been revoked.

7. When the licensee ceases to be a legal bona fide resident and citizen of the State of North Dakota.

License issued pursuant to this ordinance may, in the discretion of the City Council, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:

1. When the licensee has been convicted of violating any of the provisions of this article.

2. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances.

3. When the licensee, if an individual, or one of the partners, if the licensee be a partnership, or one of the officers or the manager if the licensee be a corporation, be convicted in the municipal court of

drunkenness or disorderly conduct, or if any appeal be taken from such conviction then when such conviction be sustained by the higher court or courts.

Such causes as are hereinbefore detailed shall not be deemed to be exclusive and such license may also be cancelled and revoked or suspended at any time by the City Council for any cause deemed 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.

When any license is terminated or revoked for cause, or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

#### 8.0629 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 one thousand dollars (\$1,000.00), or to imprisonment of not to exceed thirty (30) days; or in the discretion of the court to both such fine and imprisonment; and in addition to both such fine and imprisonment 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, menagerie, tent show, carnival or carnival show, continuous theatrical performance, shooting gallery or other like exhibition without first obtaining license from the City.

#### 8.0702 Fees for

The fees to secure license to conduct the exhibitions mentioned in the foregoing section shall be as set in the Fees and Rates Resolution.

In addition to the above fees, any carnival or circus granted a license shall deposit with the City Auditor cash bond in the amount of \$500.00 guaranteeing that the premises upon which such carnival or circus is located shall be cleaned after the showing of such carnival or circus to the satisfaction of the Public Works Superintendent and upon certification of the Public Works Superintendent to the City Auditor that the same has been done said cash deposit shall be returned to the licensee. Provided, further, that in addition to such fees, an additional fee in an amount set in the Fees and Rates Resolution, shall be paid at the time of obtaining license to provide for fire and police protection and additional policing in connection with the showing of such carnival or circus.

### **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 other than those as to which it is held to be invalid, 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 one thousand dollars (\$1,000.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court. The court shall have the power to suspend such sentence and to revoke the suspension thereof. The court may, in addition thereto, revoke the permit 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 thereof.

It shall be the Municipal Judge's decision to use the sentencing defined in Article 5 of Chapter 13 of the Revised Ordinances of the City of Cando.