

CHAPTER V

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1.

General Provisions

5.0101 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.

5.0102 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 file the same with the City Auditor, stating the purpose for which the same is desired, for what length of time, and specifying the place where his business is to be carried on; if required to file a bond before being licensed, he shall also name his proposed sureties on his bond in his application.

5.0103 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 he shall not feel authorized to grant any particular application for license or permit for any purpose not named by ordinance, he shall report such application to the next meeting of the governing board for their action thereon.

5.0104 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 July in each year and expire on the last day of June in each succeeding year.
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 him.
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 the license shall commence on the first day of July 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 license record.

5.0105 Licenses - Not Transferrable.

No license or permit shall be assignable or transferrable except by permission of the governing board. 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.

5.0106 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's 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 his license may be revoked or forfeited in the discretion of the 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 Board 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 him, shall not be entitled to any return of any portion of the license fee previously paid to the City.

5.0107 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 area of the 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.

5.0108 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 July of each year.

5.0109 Licenses - Enforcement.

All city officials having duties to perform with reference to licensed premises, including all police officer, 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.

5.0110 Licenses - Obligations to the City.

No applicant shall be granted a license who is in default under the provisions of any city ordinance, or is indebted or obligated to the City, or is delinquent in the payment of any taxes in which the City shares.

ARTICLE 2.

Transient Merchants

5.0201 Definitions.

For the purpose of this article:

1. "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 in the City of Turtle Lake, either in one locality, or in traveling from place to place within the City selling goods, wares, and merchandise, who does not intend to become and does not become a permanent merchant of the City of Turtle Lake, and who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, lots, tract, railroad car, or motor vehicle 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 association 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.
2. "Merchandise" shall not include any livestock or agricultural product.

5.0202 License Required.

It shall be unlawful to do business in the City as a transient merchant without having first secured a license therefore as is herein provided. 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.

5.0203 License Fee.

The license fee to be required of all transient merchants for the transaction of such business within the City, is contemplated in and provided for in any be Section 51-04-09, North Dakota Century Code, is hereby fixed at the sum of \$25.00 per day for each and every day during which any such transient merchants shall transact business in the City.

5.0204 License - Application For.

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

1. Applicant's name, present resident, 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 two 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 two years;
5. The place or places in the City, where it is proposed to carry on applicant's business, and the length of time during which it is proposed 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 by applicant, in the City, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; at auction, by direct sale or by direct sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application is filed.

5.0205 Bond.

Before any license shall be issued to a transient merchant for engaging in business in this City, the applicant therefore shall file with the City Auditor a bond running to the City in the sum of \$1,000.00 executed by the applicant, as principal, and a responsible surety upon which service of process may be made in the State of North Dakota; said bond not to be revocable nor to terminate prior to passage of two years time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be canceled has been given to the City Auditor; said bond to be approved by the City Attorney, conditioned that the said applicant shall comply fully with all of the provisions of the ordinances of the City and the statutes of the State of North Dakota, regulating and concerning the sale of goods, wares and merchandise and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes, or any of them, together with all judgments and costs that may be recovered against him by any person or persons for damage growing out of any misrepresentation or deception practiced on any person transacting such business with such applicant, whether said misrepresentation or deceptions were made or practiced by the owners or by their servants, agents, or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person.

5.0206 Service of Process.

Before any license as herein provided shall be issued for engaging in business as a transient merchant, as herein defined, in this City, such applicant shall file with the City Auditor an instrument nominating and appointing the City Auditor his true and lawful agent with full power and authority to acknowledge service of notice of process for and on behalf of said applicant in respect to any matters connected with or arising out of the business transacted under said license and the bond given as required by this article, or for the performance of the conditions of said bond or for any breach thereof, which said instrument shall also contain recitals to the effect that said applicant for said license consents and agrees that service of any notice or process may be made upon said agent, an when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the said license under this article, according to the law of this state or any other state, and waiving all claim or right of error by reason of such acknowledgment of service or manner of service. Immediately upon service of process upon the City Auditor, as herein provided, the City Auditor shall send to the licensee at his last known address, by registered mail, a copy of said process.

5.0207 Exhibiting License.

The license issued under this Article shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

5.0208 Transfer.

No license issued to a transient merchant in the City shall be transferred.

5.0209 Enforcement by Police.

It shall be the duty of the policy officers of the City to examine all places of business and persons in their respective territories subject to the provisions of this Article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating the same. The City Auditor shall deposit with the Chief of Police a record of each license number, together with the location within the City of the business licensed thereunder to assist and promote such enforcement.

5.0210 Revocation.

1. Any license issued pursuant to this article may be revoked by the governing body of the City, after notice and hearing for any of the following causes:
 - a. Any fraud, misrepresentation or false statement contained in the application for license;
 - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
 - c. Any violation of this article;
 - d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
 - e. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, at least five days prior to the date set for the hearing.

5.0211 Expiration of License.

All licenses issued under the provisions of this article shall expire at the expiration of the period for which application has been made and prepaid, to be renewable by the City Auditor upon application and payment therefore.

ARTICLE 3

Solicitation Without Invitation

(This Article may be used when the City does not wish to permit and license hawkers, peddlers, runners, solicitors and canvassers.)

5.0301 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 and/or for the purpose of disposing of and/or peddling or hawking the same, and for the purpose of soliciting subscriptions to magazines or periodicals and/or for the purpose of taking photographs is hereby declared to be a nuisance of unlawful.

5.0302 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 as described in 5.0301

ARTICLE 4.

Alcoholic Beverages

5.0401 Definitions.

For the purpose of this article:

1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, 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. "Liquor" shall mean any alcoholic beverage except beer.
4. "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.
5. "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.
6. "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.

7. "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 and which was in existence on November 3, 1936.
8. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
9. "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.
10. "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.

5.0402 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.

5.0403 License Required.

No person shall sell to 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.

5.0404 License - Term Of.

1. All license issued hereunder shall be for a period of not more than one year and shall expire on the 31st day of December in each year. Where a license is granted for a period less than a year and 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 therefore shall be as follows:
 - a. If the short term be for three months or less, the license fee therefore shall be 25% of the annual license fee.
 - b. If the term be for more than three months and less than six months, the license fee therefore shall be 50% of the annual license fee.
 - c. If the term be for more than six months but less than nine months, the license fee therefore shall be 75% of the annual license fee.
 - d. For any term in excess of nine months, the full annual license fee shall be paid.
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 any municipal, state or federal authority, and if so, the date of such cancellation, the place and authority cancelling 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 places, 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 in 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 subsection (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 beverage, either at wholesale or retail, and within the borders of the United States.
14. The occupations which 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. Whether or not the personal property taxes of the applicant are delinquent, and if a co-partnership, whether or not the personal property taxes of each member of the co-partnership are delinquent, and whether or not the personal property taxes levied against the property to be used in conducting the business are delinquent.
21. 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.

5.0405 License - Classes Of.

1. On- and off-sale liquor licenses at an annual fee of \$1,300.00 dollars.
2. Off-sale liquor license at an annual fee of \$725.00 dollars.

3. On- and off-sale beer license at an annual fee of \$150.00 dollars.
4. Off-sale beer license at an annual fee of \$75.00 dollars.

5.0406 License - Lodges or Clubs.

The combined fee for all four classes of license shall be in the sum of \$25.00 per year for a lodge or club.

5.0407 License - Qualifications For.

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 citizen of the United States, State of North Dakota, and be a person of good moral character.
2. If applicant is a corporation, the manager of the licensed premises and the officer, directors and stockholders must be citizens 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 citizens of the United States and residents of North Dakota for a period of more than one year prior to the date of application, and be persons 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. Applicants must not be delinquent in payment of personal property taxes.
7. Taxes on property for which application for license is made must not be delinquent.
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.

5.0408 License - Application For.

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the governing body of this City, 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.

5.0409 License - Applicant 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.

5.0410 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.

5.0411 License - Limit of Number.

- A. Two (2) on-sale and off-sale liquor retail
- B. One (1) off-sale liquor retail
- C. Two (2) on-sale and off-sale beer retail
- D. One (1) off-sale beer retail

Exclusive of club and restaurant licenses:

No license for sale of beer or liquor shall be issued in excess of the number specified above exclusive of club or restaurant licenses until such time as the population of the City of Turtle Lake, as shown by federal, state, or local official census is in excess of 1,200, and such official census shall be conclusive as to the determination of the population of the City of Turtle Lake.

5.0412 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 Governing Board. The application for approval shall be in writing filed with the Board. Public hearing shall then be had of said application, upon notice published in the official newspaper of the city two (2) times, the first publication to be at least 15 days before the hearing date set for hearing said application. At the time of hearing, the Board 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 regulation.

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 of 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.

5.0413 License - Posting Of.

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

5.0414 License - Transfer Of.

No license under the provision of this Article shall be transferrable and any attempt to do so shall constitute a violation of the provisions of this Article.

5.0415 License Fees - Disposition Of.

All license fees collected under this Article shall be transferrable to the treasurer of this City and credited to the general fund of the City.

5.0416 Hours and Time of Sale.

Intoxicating liquor may be sold on the licensed premises between the hours of 8 o'clock a.m. one day until 12:45 a.m. the following day, except Sundays after 12:45 a.m., days when sales are prohibited by State Law, and Election days between 12:45 a.m. and one hour after the polls have been closed.

Sales of liquor shall cease at 12:45 a.m. and 15 minutes thereafter shall be permitted for customers to consumer such liquor as they have purchased before the hour of 12:45 a.m. All customers must leave the premises by the hour of 1 o'clock a.m.

Between the hours of 1 o'clock a.m. and 8 o'clock a.m. of each day the doors of the establishment must be locked, provided, however, that the licensee and his employees may be permitted to enter upon the premises during such time, but no sales of liquor shall be made and no person other than the licensee and his employees may enter during said time.

5.0417 Licensee's Responsibility.

Every licensee is hereby made responsible for the conduct of his 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, nor shall any intoxicated person be permitted to remain upon the premises.

5.0418 Gambling Prohibited.

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 unless authorized by the State of North Dakota and the City Commissioner. 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.

5.0419 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.

5.0420 Sales Prohibited - Items.

No licensee shall sell on the licensed premises any item other than alcoholic beverages, soft drinks, tobacco products, drink mixing supplies, peanuts, pretzels, potato chips and related sundries; except a licensee may sell alcoholic beverages in a restaurant separated from the room in which alcoholic beverages are opened or mixed if gross sales of food are at least equal to sales of alcoholic beverages in the dining area.

5.0421 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.

5.0422 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 may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian.

5.0423 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.

5.0424 Street Sales Prohibited.

The sale or consumption of alcoholic beverages upon or across any street, alley, or public way is prohibited unless a special permit is granted by the City Commission.

5.0425 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.

5.0426 Closed or Screened Areas.

No premises licensed for on-sale of alcoholic beverages shall contain any side rooms, closed booths, or other 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.

5.0427 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 V of the North Dakota Century Code; and 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, and 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 in the State of North Dakota.

5.0428 Toilets Required.

That the premises where 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, is not, at all times, strictly observed.

5.0429 Bottle Clubs.

No person shall operate 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.

5.0430 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.
3. Where any retail alcoholic beverage or beer licensee is a club or lodge, such licensee shall sell to members only.

5.0431 Termination of Revocation of Licenses.

1. License 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:
 - a. The death of the licensee unless upon application to the governing body by personal representative of the decedent, the governing body shall consent to the carrying 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 be adjudged bankrupt.
 - d. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this Article.
 - e. 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.
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 be a partnership, or one of the officers or the manager if the licensee be a corporation, be convicted in the municipal court of the city 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.

3. 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 governing body for any cause deemed by said 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 his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.
- 5.0432 Persons Less Than Twenty-One Years Prohibited - Exceptions.

It shall be unlawful for any person under twenty-one years of age to purchase, attempt to purchase or be in possession of alcoholic beverages or furnish money to any person for such purchase or enter any licensed premises where such beverages are being sold or displayed, except a restaurant when accompanied by a parent or legal guardian.

ARTICLE 5.

Shows, Carnivals and Circuses

5.0501 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.

5.0502 Fees For.

The fees to secure license to conduct the exhibitions mentioned in the foregoing section shall be as follows:

Any carnival, per day	\$ 10.00
Any circus, per day	\$ 10.00

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 city engineer and upon certification of the city engineer to the City Auditor or if the City has no City Engineer upon determination of 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 addition fee in the amount from \$10.00 to \$500.00 to be fixed by the governing body 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.

5. The date of issuance of the license, together with the time of commencing and expiration shall be given in the license and license record.

5.0105 Licenses - Not Transferrable.

No license or permit shall be assignable or transferrable except by permission of the governing board. 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.

5.0106 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's 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 his license may be revoked or forfeited in the discretion of the 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 Board 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 him, shall not be entitled to any return of any portion of the license fee previously paid to the City.