

CHAPTER X.

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1.

GENERAL PROVISIONS

10.0101 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.

10.0102 LICENSES--APPLICATION: Any person desiring a license or permit under any ordinance of the City shall make a written application to the City thereof 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 and his application.

10.0103 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 feel not 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 City Council for their action thereon.

10.0104 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 1st day of July on each year and expire on the 1st day of June and 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 the business commences; if the business calls for a yearly license then the license shall commence on the 1st day of July in the year for which the licenses 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.

10.0105 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 licenses or at any other than the place specified therein. The City may grant the continuance of the business license 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 place at the same time, or at any other place then 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.

10.0106 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 Council. 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.

Where not otherwise provided 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 or 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.

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 portions of the license fee previously paid to the City.

10.0107 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.

10.0108 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.

10.0109 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.

10.0110 LICENSES--OBLIGATIONS OF 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 or fees in which the City shares.

ARTICLE 2.

SOLICITATION WITHOUT INVITATION

10.0201 SOLICITATION WITHOUT INVITATION: The practice of going in and upon private residences or privately owned property in the City by solicitors, peddlers, hawker, 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 and unlawful.

10.0202 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 is described in 10.0201.

ORDINANCE NO. 305

AN ORDINANCE, AMENDING AND RE-ENACTING SECTION 10.0201, CHAPTER TEN ORDINANCES, ARTICLE TWO—SOLICITATION WITHOUT INVITATION OF THE CITY CODE OF THE CITY OF BELFIELD, NORTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELFIELD, NORTH DAKOTA, PURSUANT TO THE HOME RULE CHARTER OF THE CITY OF BELFIELD, AS FOLLOWS:

Chapter Ten, Article Two—Hawkers and Peddlers (sections 10.0201 to 10.0209) of the City Code of the City of Belfield is hereby REPEALED and Chapter Ten, Article Two—Door-to-Door Sales and Solicitation, is re-enacted as follows:

ARTICLE TWO- DOOR-TO-DOOR SALES AND SOLICITATION

Section

10.0201 Declaration of Purpose and Intent

- 10.0202 Definitions.
- 10.0203 Permit required.
- 10.0204. Door to Door Sales; Application.
- 10.0205 Issuance of Permit and Terms Thereof.
- 10.0206 Revocation of permits.
- 10.0207 Solicitations practices.
- 10.0208 Repeal of Ordinances in Conflict.
- 10.0209 Severability.
- 10.02010 Effective Date.

Section 10.0201. Declaration of Purpose and Intent. The City Council of the City of Belfield finds and declares that for the safety, privacy and protection of residents of the community and for the preservation of the rights of people conducting protected speech, it is necessary and proper that certain door-to-door solicitations in residential areas be regulated and that permissible sales or solicitations be restricted to daylight or early evening hours.

(Ord. 305)

10.0202. Definitions.--

1. "Charitable organization" means any nonprofit organization operated for the relief of poverty, distress, or other condition of public concern within this city, which has been so engaged within this city for two years.
2. "Civic and service club" means any branch, lodge or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within the state of North Dakota, which shall have existed in this city for two years. "Civic and service club" shall also mean a similar local nonprofit organization, not affiliated with a state or national organization, which is recognized by resolution adopted by The City Council of the City of Belfield. Such club shall have existed in this city for two years.
3. "Educational organization" means any nonprofit public or private elementary, secondary or high school in this city which has been in existence for two years.
4. "Fraternal organization" means a nonprofit organization within this city except for college and high school fraternities, which is a branch or lodge or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. Such organization shall have existed within this city for two years.
5. "Other public-spirited organization" means a nonprofit organization recognized by The City Council of the City of Belfield by resolution as such.
6. Door-to-door salesperson shall mean any person engaged in the selling of personal property by going from place to place or house to house or by selling from a vehicle or conveyance and who carries with him/her such property for delivery at time of sale.
7. "Person" shall include the singular and plural, and shall also mean and include any person, firm or corporation, association, club, partnership, society, or any other organization.
8. "Religious organization" means any nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observance which has been so gathered or united in this city for two years.
9. "Solicit" shall mean the practice of going about from person to person, place to place, or

house to house, or using other means including telephone, requesting orders, offering to sell personal property, or services, requesting money or credit from another, or soliciting contributions for any purpose. Solicit shall not include the practice of using the telephone in an attempt to arrange for a

meeting or appointment between the parties, nor shall it include the practice of contacting persons for the purpose of membership enlistment in any firm, corporation, association, club or organization which has been in existence in the city of Belfield for at least one year.

10. "Solicitor" shall mean any person who engages in the practice of, or who directs, allows or permits any person to engage in solicitations.

11. "Veterans organization" means any congressionally chartered organization within the state of North Dakota, or any branch or lodge or chapter of a nonprofit national or state organization within this city, the membership of which consists of individuals who were members of the armed services or forces of the United States. Such organization shall have been in existence in this city for two years.

(Ord. 305)

10.0203 Permit required.--Except as hereinafter provided, it shall be unlawful for any person to solicit or act as a door-to-door salesperson within the corporate limits of the city of Belfield without first obtaining a solicitation permit. If the applicant is a firm, corporation, association, club, partnership, society or other organization, each individual who is employed by or acting on behalf of such organization shall be required to obtain a sub-permit as hereinafter provided.

This section shall not apply:

A. To the solicitation of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden products as far as the sale of such commodities is authorized by law.

B. To the solicitation of orders for the distribution or sale of regularly published newspapers.

C. To solicitations conducted by radio, television and newspaper advertising.

D. To solicitations conducted by members of charitable organizations, persons soliciting for or in support of any non-profit organization or public interest, political candidates, or persons campaigning for or against a political candidate or issue civic and service clubs, educational organizations, fraternal organizations, religious organizations, veterans organizations, or other public-spirited organizations.

E. To the solicitation of orders for the sale of property or services made to or by business suppliers, distributors or retailers when such solicitations occur at the business premises.

F. To the distribution or sale of religious, political, economic or educational tracts, pamphlets, papers or periodicals where the proceeds are to be used exclusively for religious, charitable or benevolent purposes.

G. To the distribution or sale of personal property by charitable organizations, civic and service clubs, educational organizations, fraternal organizations, religious organizations, veterans organizations, or other public-spirited organizations where the proceeds are to be used exclusively for charitable, benevolent, educational, patriotic or other public-spirited purposes.

H. To solicitations conducted by persons who have a permanent residence or permanent place of business in Stark County, North Dakota.

Source: (Ord.305)

10.0204. Door to Door Sales; Application.

Any person or organization desiring to engage in door-to-door sales for the purpose of selling or soliciting orders to sell goods, wares, merchandise, magazines, periodicals or personal services, may do so provided they comply with the provisions of this chapter and obtain a permit to do so. An application for a solicitations permit shall be made to the city auditor upon forms provided by the city of Belfield. The city auditor shall be authorized to issue such solicitation permits on the approval of the chief of police or his designated representative. The application herein required shall contain the following information, or in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished.

1. Applicant's name, present residence, present home address, present business address, and current telephone number.
2. A general description of the Applicant's business including the goods, wares, merchandise, magazines, periodicals or personal services that will be sold in the City.
3. Applicant's residence and business address for the prior two-year period, if different from the present residence and address.
4. The name and address of the organization the applicant represents or by whom they are employed.
5. If the applicant is a business and the application is for multiple sales persons, a complete listing of the name, local address and telephone number of each sales person that will conduct sales in the City must be provided.
6. The application must include a copy of the applicant's North Dakota sales tax permit and if applicable, a copy of the applicant's transient merchant license.
7. Such other information as is required by the city.

An applicant for a door to door sales permit must be a person of good character, integrity, honesty whose prior activities, criminal record, including arrest record or pending criminal cases, reputation, habits, and associations do not pose a threat to the public interest of this state or to safety or security of the citizens in their homes. The City may conduct a background check on any applicant for a door to door sales permit. A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government under circumstances which indicate the person poses a threat to the public interest, or has pled guilty to or been found guilty of a felony violation of **NDCC Chapter 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, 12.1-23** or an offense of other states or the federal government equivalent to the offenses defined in these chapters may not be granted a door to door sales permit for five years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.

A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of **NDCC Chapter 12.1-06.1, 12.1-11, 12.1-20, 12.1-22, or 12.23**, or an offense of other states, the federal government, or a municipality equivalent to these offenses may not be issued a door to door sales permit for two years from the date of conviction, release from incarceration, end of a period of suspension or deferral, or expiration of parole or probation, whichever is the latest.

The City Auditor shall issue or deny door to door sales permit within a reasonable time of receipt of the application. Written notice of a denial must be mailed to the applicant at the address listed as current on the application. The notice shall contain a statement of the facts upon which the denial is based. Denial of a door to door sales permit is subject to an appeal to the City Council of the City of Belfield upon written notice of appeal filed within 10 days of receipt of the notice of denial. If no appeal is filed within the time specified the action shall be final. Upon receipt of a notice of appeal, the City Council shall set a date for a hearing within 15 days of receipt of the notice of the appeal. Notice of the time and place for the hearing must be served upon the applicant personally or by certified mail at least five days before the hearing. The City Council shall hear such testimony and other evidence as it deems necessary and expedient, and thereupon make its findings and decision, which shall be final.

Source: (*Ord.305*)

10.0205 Issuance of Permit and Terms Thereof.

1. Upon approval of the application, the City Auditor shall issue a permit to the applicant.
2. The permit is to be in the form of an identification badge and must be worn at all times by the applicant when selling. Duplicate permits may be issued to each employee or agent of the applicant that will engage in sales.
3. The permit must have a number on it which shall also be placed on the applicant's application file. The permit or permits must also contain the name of the applicant and the name of the sales person. Each sales person shall wear a permit in a visible manner during all sales activities.
4. The permit shall be issued for a period of one year. The permit fee shall be \$200 plus an additional \$25 for each additional sales person to be included on the permit.

Source: (*Ord. 305*)

10.0206. Revocation of Permits.

1. Permits issued under the provisions of this chapter may be revoked by the City Council of the City of Belfield after notice and hearing, for any of the following causes:
 - a. Fraud, misrepresentation or false statement contained in the application for a permit.
 - b. Fraud, misrepresentation or false statement made in the course of carrying on business.
 - c. Any violation of this chapter.
 - d. Conviction of any crime involving theft or dishonesty.
 - e. Conducting the business 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 the hearing for revocation must be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice must be mailed, registered mail, to the address of the licensee as contained in the application, at least five days prior to the date of the hearing.

Source: (*Ord.305*)

10.0207. Solicitations practices.--

- A. The solicitations permit, or a duplicate thereof, shall be carried at all times by the

solicitor and shall be exhibited when requested to do so by any police officer or any person contacted. It shall be the duty of any police officer to require any solicitor to produce his solicitations permit and to enforce the provisions of this ordinance against any person found to be violating the same.

B. The chief of police shall report to the City Council all convictions for violations of this ordinance.

C. Solicitations conducted in and upon private property by solicitors after having been requested to leave such private property by the owner or occupant thereof is prohibited.

D. No person shall directly or indirectly solicit contributions for any purpose or misrepresentation by his name, occupation, financial condition, social condition or residence, and no person shall make or perpetrate any other misstatement, deception or fraud in connection with any solicitation of any contribution for any purpose in the city of Medora, or in any application or report filed under this ordinance.

E. No person shall engage in solicitation upon any premises without a prior invitation from the occupant thereof, if such premises are posted against such solicitation by the means of a notice prominently displayed, upon which is printed the legend: "NO SOLICITORS" (or words of similar import). For purposes of this paragraph, a dwelling house or apartment or other place of residence shall be deemed to be posted against solicitation if there is exhibited, on or near the main entrance to the premises, or on or near the main door to any residence located thereon, a sign at least 3" by 4" in size which bears the above legend in letters at least 1/3" in height.

F. There shall be no solicitation upon any premises prior to 9:00 a.m. or after 9:00 p.m., local time, of any day, other than upon prior invitation of the occupant of any such premises.

G. Not more than two individuals shall engage in solicitation upon any premises at the same time for the same goods or services, or religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated such provision.

H. No person shall make more than one solicitation call at the same premises for the same goods or services, or religious or charitable purposes within any consecutive six-month period, without a prior invitation therefore from the occupant of any such premises. This provision shall be construed to prohibit a person, or his employee, agent or representative, from knowingly soliciting the same premises more than once during the aforesaid period.

Source: (Ord. 305)

10.0208. *Repeal of Ordinances in Conflict.* All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

10.0209. *Severability.* In the event any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

10.02010. *Effective Date.* This Ordinance shall be in full force and effect from and after final passage.

ARTICLE 3.

ALCOHOLIC BEVERAGES

10.0301 DEFINITIONS: For the purpose of this Ordinance, the following words and phrases shall have the meaning ascribed to them in this section:

(a) Alcoholic beverages. Any liquid suitable for drinking by human beings which contains one-half of one percent or more of alcohol by volume and shall include, but is not necessarily limited to, any whiskey, rum, beer, hard cider and wine. It shall be presumed, for purposes of this Ordinance, that any such beverages contain more than one-half of one percent of alcohol by volume.

(b) Commercial licenses. All licenses issued for the sale of alcoholic beverages, except licenses issued to lodges or clubs or those issued to hotels/motels or restaurants.

(c) Hotel or motel license. A hotel or motel license shall be one issued to the owner or lessee of any hotel or motel having twenty-five (25) or more rental units.

(d) Restaurant license. A license issued for the sale of alcoholic beverages to a restaurant having a seating capacity of 100 or more.

(e) Lodge or club. A license issued to any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, having a membership of 50 or more.

(f) Off-sale. The sale of intoxicating beverages in original packages for consumption off or away from the premises where sold. An off-sale license shall authorize the person named therein to conduct such sale at the place designated in such license only and not elsewhere.

(g) On-sale. The sale of any alcoholic drinks for consumption on the premises where sold. An on-sale license shall authorize the person named therein to conduct such sales at the place designated in such license and not elsewhere. An on-sale license issued pursuant to the provisions of this Ordinance shall permit off-sales of liquor under the terms and conditions set forth therein.

(h) Person. Any of the following: Any individual who is a bona fide resident and a citizen of the State of North Dakota; any domestic, private or municipal corporation organized and existing under the laws of the state; any partnership, all of whose members are bona fide residents in and citizens of the state; or any lodge or club existing as defined in this section and maintaining its main lodge or club rooms within the City. No foreign corporation shall be considered a person for purposes of this Ordinance, nor shall any foreign corporation be entitled to a license under this Ordinance.

(i) Retailer. Any person engaged in the sale and distribution of alcoholic beverages of any type under any type of license, except a wholesale license.

(j) Sale and sell. Any manner or means of furnishing alcoholic beverages, including the selling, exchanging, bartering, disposition of an keeping for sale of such alcoholic beverages as defined in this section.

(k) Special events. An event occurring other than in the ordinary course of business, for a specific purpose and of limited duration not to exceed fourteen (14) days.

(l) Licensed premises. Any place at which alcoholic beverages are dispensed pursuant to an alcoholic beverage license issued under the provisions of this Ordinance.

(m) Licensee. A person, partnership, corporation, or other organization holding an alcoholic beverage license under the provisions of this Ordinance.

(n) Live performance. Acts whereby any person who for consideration, monetary or otherwise, performs in person on a licensed premises as a signer, musician, dancer, comedian, or model.

10.0302 TERRITORIAL JURISDICTION OF CHAPTER: This Chapter shall apply to all territory within the corporate limits of the City and to such outlying, contiguous territory without the corporate limits within which this City may exercise police jurisdiction as defined by law.

10.0303 ENFORCEMENT OF CHAPTER: It shall be the duty of the Chief of Police and all of the policemen of the City to visit places licensed for the sale of alcoholic beverages under this Chapter and to rigidly enforce all of the provisions of this Chapter. The willful failure of the Chief of Police or any police officer of the City to so enforce the provisions thereof shall be and shall constitute sufficient grounds for their removal from office.

10.0304 MINORS-PURCHASE OR POSSESSION: It shall be unlawful for any person under the age of twenty-one years to purchase or attempt to purchase, or to have in his possession any form of alcoholic beverage within the City or to consume any form of alcoholic beverage, other than during a religious service.

10.0305 EMPLOYMENT BY ESTABLISHMENTS HAVING ON-SALE LICENSE: Any licensee who disposes alcoholic beverages to a person under twenty-one (21) years of age or who permits such a person to remain on the licensed premises while alcoholic beverages are being sold or displayed is guilty of a misdemeanor, subject to the provisions of this Ordinance. Any person under twenty-one years of age may remain in a restaurant where alcoholic beverages are being sold if accompanied by a parent or legal guardian, or if employed by the restaurant as a food waiter, food waitress, busboy or busgirl under the direct supervision of a person over the age of twenty-one years of age, and not engaged in the sale, disposition, delivery or consumption of alcoholic beverages. Any establishment where alcoholic beverages are sold may employ persons from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of a person over twenty-one years of age.

10.0306 PRESENCE IN ESTABLISHMENTS HAVING ON-SALE LICENSE: It shall be unlawful for any person under the age of twenty-one years of age to enter or be upon the premises where any form of alcoholic beverage is sold or offered for sale at retail for consumption on the premises; except, that a person under twenty-one years of age may be in a dining room in which alcoholic beverages may be served in compliance with state law if he is with his parent or parents or a court-appointed guardian. This exception, however, shall not be construed to permit any person under the age of twenty-one years to enter or be in a room where a bar is maintained even if accompanied by a parent or guardian. It shall be unlawful for any alcoholic beverage licensee or any of his agents, servants or employees to permit any person under the age of twenty-one years to enter or be upon the premises where such alcoholic beverages are sold unless such person qualifies for one of the exceptions herein specifically set forth.

10.0307 PURCHASING FOR OR FURNISHING: It shall be unlawful for any person to purchase or procure for any person under the age of twenty-one years any form of alcoholic beverages or to furnish or deliver any such alcoholic beverages to any such person.

10.0308 FURNISHING MONEY TO OTHERS FOR PURCHASES: It shall be unlawful for any person under the age of twenty-one years to furnish money to any other person for the purpose of purchasing alcoholic beverages, and whosoever shall in any way procure or furnish alcoholic beverages for the use of any person under the age of twenty-one years shall be deemed to have sold to such person in violation of the terms of this section.

10.0309 STATEMENT OF AGE REQUIRED PRIOR TO PURCHASE; FALSE STATEMENTS AS TO AGE, ETC.:

(a) Before selling, servicing, or dispensing to any person any alcoholic beverages, a licensee under this Chapter, his agent, servant or employee may require a statement in writing and signed by such person of such person's age.

(b) It shall be unlawful for any person under the age of twenty-one years to make any false statement or to furnish, present or exhibit any false or fictitious registration card or other document or evidence for the purpose of gaining admission to any place where his presence is prohibited or for the purpose of procuring the sale to him of any alcoholic beverage.

10.0310 PROOF OF AGE: A licensee shall have the duty and responsibility to make available for inspection by a member of the Belfield Police Department an identification card, such as a driver's license, containing a photograph and the age of all entertainers or performers on the licensed premises. The licensee shall not permit a person to make a live performance on the licensed premises if the licensee is not able to obtain the required identification from the performer.

10.0311 CONDUCT ON PREMISES WHERE SALE PERMITTED: Every person holding a license to sell alcoholic beverages shall be responsible for the conduct in his place

of business and shall maintain order and sobriety in such place.

10.0312 SALE, CONSUMPTION, ETC., ON STREETS, PUBLIC WAYS, ETC.:

The sale, serving, consumption or possession of any alcoholic beverage upon or across any street, alley or public way is hereby prohibited.

10.0313 SALE TO CERTAIN PERSON:

- (a) No licensee under this Chapter nor any of his agents, servants or employees shall sell, serve or dispense in any manner any alcoholic beverages to any habitual drunkard, intoxicated person, incompetent person under guardianship or to any person under the age of twenty-one years. No such licensee shall permit any of such persons to be furnished with any type of alcoholic beverage on the premises for which such license is granted.
- (b) Whosoever shall in any way procure or furnish any alcoholic beverage for the use of any person named in this section shall be deemed to have sold the same to such person and to have violated the terms and conditions of this section.

10.0314 PROHIBITED HOURS AND DAYS OF SALE: No licensee under this Ordinance or any of his agents, servants or employees shall dispense or permit the consumption of alcoholic beverages on licensed premises after 1:00 a.m. on Sundays, before 12:00 p.m. on Sundays, between the hours of 1:00 a.m. and 8:00 a.m. on all other days of the week; on Christmas Day, after 1:00 a.m. on Thanksgiving Day, or after 6:00 p.m. on Christmas Eve.

10.0315 PRESENCE ON PREMISES PROHIBITED AFTER HOURS: No alcoholic beverage licensee or any of his agents or employees shall allow or permit any person to enter into or be upon the premises of any retail commercial alcoholic beverage establishment at any time when sales or consumption of alcoholic beverages are prohibited by state law. However, this section shall not apply to regular employees of such licensee performing regular and assigned work in and about the premises or cleaning such premises or arranging stock therein or to independent contractors performing their assigned work and duties upon such premises.

10.0316 CREDIT SALES: No retail licensee under this Ordinance shall extend any credit for any on-sale of any alcoholic beverages, and he shall not extend credit for any off-sale of any alcoholic beverages for more than thirty (30) days. No wholesale licensee of alcoholic beverages under this Chapter shall extend credit for the sale of any alcoholic beverages for a period in excess of thirty (30) days.

10.0317 SALE OF BEER IN KEGS; RECORDS AND MARKING REQUIRED:

(a) A retail licensee selling beer in a container having a liquid capacity greater than six gallons (22.71 liters) shall place a distinctive symbol, notation or mark on the container which uniquely identifies him/her, and moreover, shall mark such container with a "registration" number or letters or both, unique to that container. The paint or ink used to

mark the containers or other manner of marking the containers must be approved by the attorney general.

(b) Whenever a retail licensee sells beer in a container with a liquid capacity greater than six gallons (22.71 liters), he/she shall record the date of sale and the name, address, driver's license number or number of other official state or military identification card of the person to whom the beer is sold, together with the signature, and registration number or letters of the container, or both. Such records must be retained for a period of no less than six months and must be kept on the licensed premises of the retail establishment where the sales are made.

(c) Each retail licensee shall register his or her unique identification symbol, notation or mark with the attorney general and shall permit any law enforcement officer to inspect the records required to be kept pursuant to this section during times the retail establishment is normally open for business or at other reasonable times.

(d) This section shall not apply to the sale of beer in a container by a retail licensee if the contents of the container are consumed on the licensed premises where the sale occurred.

10.0318 TOILET REQUIREMENTS FOR ON-SALE PREMISES: The premises where any on-sale license is granted for the sale of any alcoholic beverages must be equipped with adequate and sufficient lavatories and toilets separately maintained for men and women and kept in a clean and a sanitary condition.

10.0319 SIDE ROOMS, BOOTHS, ETC., ON PREMISES WHERE BEVERAGES ARE SOLD: No licensee for the retail sale of any alcoholic beverage shall maintain or suffer to be constructed or maintained or placed on the premises licensed and side room, closed booth or other enclosure. All booths located on such premises shall open into the main part of the premises only and shall not have thereon or over the opening thereof any screen, curtain, partition, door or blind or any obstructions of any kind preventing a clear view into any such booths or enclosures from the main room or aisle of the premises.

10.0319.1. PATIOS, DECKS, OR OTHER OUTSIDE FACILITIES.No person applying for a license for the retail sale of any alcoholic beverages, and no licensee for the retail sale of alcoholic beverages, shall be licensed or permitted to sell or allow the consumption of alcoholic beverages in or on any outside patio, deck, or other facility or structure (hereafter Aenclosed area@) unless the following conditions are met:

- a. The enclosed area shall be enclosed by a structure of sufficient height and material so that the inside of the enclosed area is not visible from the outside.
- b. The public will not be allowed access into the enclosed area other than through the licensed bar building.
- c. Minors will not be allowed inside the enclosed area.

d. The enclosure shall be constructed and maintained in compliance with any and all applicable Building and Fire Codes.

e. The enclosed area shall be sufficiently lighted to permit visibility from inside the bar.

f. The licensee shall provide a glass window or door to permit visibility of the enclosed area from inside the bar.

g. A licensee, its agents or employees, is allowed access into the enclosed area through an exit, or other specially created gate or doorway, from an outdoor food preparation area, for the purpose of food delivery.

(Ordinance 264).

10.0320 GLASS DOOR ON PREMISES WHERE BEVERAGES SOLD: The premises where any on-sale license is granted for the sale of any alcoholic beverages must be equipped with one glass door allowing a view of the premises where alcoholic beverages are being sold.

10.0321 RETAIL-LICENSE REQUIRED: It shall be unlawful for any person to sell, exchange, dispose of or keep for sale any alcoholic beverage within the City without first obtaining a license for the sale thereof from the City.

10.0322 ELIGIBLE PERSONS:

(a) For purposes of this Chapter, any person who is a citizen of the United States, is a citizen of the state, has maintained a bona fide residence within this state for at least one year prior to such application and is a person of good moral character may engage in the retail sale of alcoholic beverages in the City under such restrictions as are provided in this Ordinance if such person's application is accepted and approved by the board of the City Council.

(b) Any partnership, in order to qualify for a license under this Chapter, must establish that all of its partners are qualified to be individual licensees as required by this Chapter.

(c) Any corporation applying to qualify for a license, in order to be qualified, must establish that, not only the manager, but also all of the stockholders of the corporation meet the citizenship, residency and good character qualifications set out above in subsection (a).

10.0323 ISSUANCE TO CERTAIN PERSONS PROHIBITED-MINORS OR IMMORAL PERSONS: No license shall be issued under this Ordinance to any person under the age of twenty-one years or to any person deemed by the City Council to be morally unfit to engage in the business for which a license is sought by reason of felony

convictions, habitual drunkenness, or mental incompetence.

10.0324 TAX DELINQUENTS: No license for the sale of alcoholic beverages under the provisions of this Ordinance shall be granted to any persons where real property taxes owned by the licensee or applicant are delinquent. For purposes of this section, taxes shall be considered delinquent if any individual, partner, or person financially interested in such business or corporation seeking such a license has any delinquent personal or real property taxes on property that they own, whether or not such property may be attached to or in any way connected with the licensed establishment.

10.0325 RESTRICTIONS ON ISSUANCE TO LODGE OR CLUB: No license shall be issued to any lodge or club where sales of alcoholic beverages in such lodge or club are made for profit, unless such profit is used for benevolent purposes.

10.0326 LICENSEE TO BE OWNER OF BUSINESS: No license provided for in this Ordinance shall be issued to any person engaged in business as a representative or agent of another. The license may be issued only to the owner of the business being conducted or to be conducted as the location sought to be licensed.

10.0327 NUMBER PER PERSON: No more than one retail or wholesale license for the sale of alcoholic beverages either on-sale or off-sale, shall be directly or indirectly granted or issued to any one person.

10.0328 RETAIL-APPLICATIONS:

(a) All applicants. Any person who is eligible for a license as provided in this Ordinance, or in the case of a lodge or club, any such organization qualifying as a lodge or club, may obtain a license to sell alcoholic beverages within the City if otherwise entitled thereto under this Ordinance and upon fully complying with all of the provisions of this Ordinance by executing, under oath, forms provided by the City Auditor setting forth the name, citizenship and place of residence of the applicant and the legal description of the premises where alcoholic beverages are proposed to be sold, together with such detailed description of the premises and facilities as the auditor may require. The application shall have attached to it receipt of the county treasurer showing that all taxes of the applicant on real and personal property levied and assessed against him are paid. The application must also show the age of the applicant if the individual, the name, place of residence, citizenship and the age of each partner if the applicant is a partnership and if the applicant is a corporation, either private or municipal, the name, place of residence, citizenship and age of each officer, director, manager, and any stockholder owning more than five percent (5%) of the stock in such corporation.

Every applicant shall be required, as a portion of his written application, to promise and agree to abide by and obey all applicable laws of the state and all applicable ordinances of the City so far as such laws or ordinances may be concerned with his operation of the licensed premises and any activities conducted thereon.

There shall be incorporated on any such application the following consent which

shall be signed by the applicant:

The applicant herein does expressly consent that any member of the board or City Council and any police officer of the City or any person or persons duly authorized by the board or City Council may enter upon the premises described in this application at any reasonable hour of the day or night, and at such times they shall have free access to all portions of the property comprising the licensed premises for the purpose of inspecting such premises for any possible violation of any of the laws of the state or of any of the ordinances of the City whether they pertain specifically to the sale of alcoholic beverages or not. Such access shall be permitted for such purposes without the necessity of a search warrant.

(b) New applicants. In addition to the provisions required of all applicants, all new applicants or those who previously have not been granted alcoholic beverage licenses by the City shall be required to furnish the following:

1. A complete statement of the type of business contemplated and a comprehensive description of the physical layout of the premises to be licensed.
2. The names and addresses of three (3) business references and three (3) character references.
3. A complete history of the applicant's business experience. Each applicant shall also cooperate to the fullest extent in obtaining and submitting to the City Auditor complete military and police records concerning any persons involved with the applicant organization.
4. A statement specifying whether the applicant is engaged in any other business or intends to be engaged in any other business other than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business.
5. A complete history of the applicant's residency and employment for five (5) years immediately prior to the date of application. If the applicant is a partnership, this information shall be furnished for all of the partners; and, if a corporation, the amount of the authorized capital, the amount paid in capital, whether such corporation is a subsidiary of any other corporation and, if so, the name of the parent corporation, the purposes for which the corporation is incorporated and the names and addresses of all officers, directors and managing agents, and the names and addresses of all stockholders holding more than five percent (5%) of the capital stock of such corporation shall be furnished.

6. The name and address of the legal title owner of the premises for which the license is sought, and if the license is sought for a person other than the owner of the premises, the terms and conditions of the lease under which the applicant holds the possession of such premises shall be stated insofar as the terms of the lease and the rental to be paid are concerned. The applicant shall, when required by the City Council, furnish to the council a copy of the lease under which he holds possession of the premises. If the license is sought by the owner of the premises, the application shall state the time when such applicant acquired title thereto.
7. A statement specifying whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to the date of application, and, if so, the date and type of business and the place where such distribution was conducted shall be furnished.
8. A statement indicating whether the applicant has ever had a license for the sale of alcoholic beverages revoked or canceled by any municipality, state or federal authority; and, if so, the date of cancellation, the place and authority canceling the same and the reasons for such cancellation shall be stated.
9. A statement indicating whether the applicant has ever been convicted of a 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 intoxicating beverages and, if so, the dates, names of places and courts in which such convictions were obtained, and the type of crime of which the applicant was convicted.
10. A statement indicating whether any other person other than the applicant has any right, title or interest in the leasehold or in the furniture and fixtures or equipment of the premises for which the license is sought and, if so, the names and addresses of such person or persons together with a statement of the interest held.
11. A statement whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person to obtain for any person or to transfer to any other person the license obtained or to use the license for any other purpose other than the specific use of the applicant; and, if so, the names and addresses of such persons and the conditions of such agreements.
12. A statement whether the applicant has any interest whatsoever, directly or indirectly, in any other liquor or alcoholic beverages establishment, either wholesale or retail, within or without the state; and, if so, the names and addresses and detail concerning such

establishments.

13. A statement indicating the classification of the license applied for, whether commercial on-sale or commercial off-sale of license for lodge or club, hotel, motel, or restaurant.
14. If the license is sought for a lodge or club, the date of the organization of the club and the number of the members therein as well as the purpose for which such club was organized shall be stated in full.

10.0329 CLASSES; AUTHORITY UNDER LICENSE:

(a) There shall be issued by the City seven (7) kinds of retail licenses for the sale of alcoholic beverages. They are as follows:

1. Commercial Licenses for both On-Sale and Off-Sale
2. Commercial Licenses for Off-Sale only
3. Lodge or Club Licenses
4. Hotel or Motel Licenses
5. Restaurant Licenses
6. Special Events Licenses
7. Specialty restaurant beer and wine licenses may be issued permitting on-sale tap beer sales and/or wine sales subject to the following restrictions and conditions:
 - (a) A licensee hereunder shall comply with all of the law of the state relating to the sale and dispensation of alcoholic beverages.
 - (b) The food and beer and/or wine license hereunder shall be for the sale of beer and/or wine for consumption on the premises only, and no sales for consumption off the premises shall be made.
 - (c) A licensee hereunder shall sell tap beer only which shall be dispensed by the licensee or an employee from kegs or barrels, and the sale of beer in bottles, cans or similar packages shall not be permitted. Wine may be sold on tap or by bottles for consumption on the premises with food.

- (d) Beer and wine shall be consumed at tables or booths only, and no beer or wine shall be consumed at a counter or bar.
- (e) No dancing will be permitted in an establishment holding a license hereunder.
- (f) The license fee for food and beer and/or wine license shall be Four Hundred DOLLARS (\$400.00) per year, payable in a manner provided.
- (g) Licenses issued under this section shall be limited to one for the current population as of July 1, 1981, which is deemed to be 1,392. Thereafter, one additional license may be issued for each 1,000 additional people in the City as determined by the City Council.
- (h) Except as modified in this section, a license hereunder shall comply with and be subject to all of the remaining provisions of this Ordinance.

10.0330 LIMITATION ON NUMBER; ISSUANCE GENERALLY; RENEWAL:

(a) On July 1, 1985, there were presently existing a total of four (4) commercial licenses, including both on-sale and off-sale only licenses. The last official federal census of the City prior to that date revealed the population of the City to be 1,268 people. An additional commercial license may be granted, except as hereinafter provided, for each population increase of seven hundred (700) people, determined by the City Council from annexations, household units or other methods of estimated population.

(b) As of July 1, 1985, there was one lodge or club license in existence. It shall be transferable. Any additional lodge or club licenses may be granted only to organizations qualifying as a lodge or club, provided that the applicant can meet the other requirements of this Ordinance.

(c) In addition to any alcoholic beverage licenses that may be issued under subsections (a) or (b) of this section, it is hereby provided that the City may grant an alcoholic beverage license for on-sale to any restaurant or motel within the City limits.

(d) Each year when the issuance of licenses is considered by the City Council, it shall first consider applications from persons holding existing licenses before considering any requests from new applicants.

1. In considering whether or not to issue licenses to those previously licensed, the City Council shall review and evaluate the past record of such licensees, including any violations of city Ordinance or state law, and also the general manner in which the licensed premises has been conducted and managed. No licensee shall necessarily be

entitled to an automatic renewal of his license.

2. In the event of the issuance of a license to renew applicant, such license shall be granted to the applicant being most qualified by the City Council. Factors to be considered in determining whether additional licenses shall be issued include but are not limited to:

(a) Location of proposed licensee, especially with regard to:

1. 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 building used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Interference with or proximity to residential property.
8. Interference with neighboring property.
9. Suitability of premises for sale of beer, liquor or alcoholic beverages.
10. Public convenience and necessity.

(b) Economic health of existing licensees; and

(c) Public demand for additional facilities.

(e) Any license provided for in this Chapter shall be denied to any applicant who, in the discretion of the City Council, is a person of questionable character or for any other cause which would, in the opinion of the council, render the applicant or the premises to be licensed improper or unfit, which would, in the council's opinion, make the granting of the license contrary to the best interests of the City and its citizens.

10.0331 APPROVAL OF APPLICATIONS BY CITY COUNCIL: The City Auditor shall submit each application for a license under this Chapter to the City Council, who shall consider and then act upon such application at the next meeting thereafter. Every new applicant for a license under this Chapter shall be required to make a personal

appearance before the City Council. If the applicant is a partnership, such appearance shall be made by at least one of such partners, and if a corporation, such appearance shall be made by the manager of the premises for which the application is made.

10.0332 MAJORITY VOTE BY CITY COUNCIL REQUIRED FOR ISSUANCE:

No license shall be issued hereafter, whether it be a renewal of an old license or not, without the affirmative vote of majority of all of the members of the City Council.

10.0333 ISSUANCE-RECEIPT CONSTITUTING LICENSE:

If an application for a license under this Chapter is approved, the City Auditor shall issue to the applicant a receipt showing the date paid, the amount paid, by whom paid and for what location the license is authorized, and such receipt shall constitute a license. Such license shall further state the class of licenses and shall contain a legal description of the premises and the specific location at which such alcoholic beverages are to be sold.

10.0334 RETAIL-TERM; FEES:

All licenses under this Chapter shall run for annual periods commencing July 1st of each year and terminating on June 30th of the following year. The license fees listed below shall be payable in advance at the time of the issuance of the license. If the first annual license fee is paid other than on the 1st of July, the license fee for the next succeeding license period from July 1st to June 30th shall be abated proportionately so that the license holder receives full credit for the license fee paid when the first license is issued to the license holder. Failure to pay any license fee listed below on or before the date when due shall automatically cancel such license.

Annual license fees shall be as follows:

Commercial on-sale and off-sale	\$ 1,250.00
Commercial off-sale	750.00
Lodge or club	200.00
Restaurant license, on-sale	500.00
Motel/hotel	1,250.00
Specialty restaurant - beer and wine	400.00
Beer only	100.00

Special event license fees shall be \$25.00.

Sunday Permits as provided in Section 10.0347 shall be \$25.00.

(Corrected 9/23/08 without ordinance to reflect correct Section Number).

10.0335 WHOLESALE:

Any person engaging in the sale at wholesale of beer or liquor in the City must first procure a license from the State Treasurer for the state of North Dakota. The City shall not issue wholesale beer or liquor licenses.

10.0336 PAYMENT, PRORATION AND REFUND OF FEES:

Each applicant for a license under this Chapter shall be accompanied by a certified check in the appropriate amount of the license fee or semi-annual payment as hereinbefore provided.

No short-term license shall be granted, nor shall any sum other than has hereinbefore been provided be collected and accepted even if the applicant filed his application after a portion of the licensing year had expired. However, in the event that the license is issued after the expiration of a portion of the licensing year and the licensee had paid a full year's license or a semi-annual payment on the license on a succeeding licensing year, he shall then be granted a credit toward the payment of the fee for such succeeding year. The credit so granted shall bear the same relation to the annual license fee as does the period of the first year that the applicant was not in business to the annual licensing period.

If the application for a license is denied, the City Auditor shall refund the fee deposited with him to the applicant upon demand. All license fees collected by the City Auditor under this Chapter shall be delivered to the City Treasurer and credited to the general fund of the City.

In the event of a sale or transfer of the licensed premises during the licensing period the annual license fee previously paid by the prior license holder is not refundable.

10.0337 IDENTIFICATION NUMBER AND RECORDS; DISPLAY: Each license issued under the provisions of this Chapter must be given an identification number, and a permanent record thereof must be kept by the City Auditor showing the name and address of the licensee and a description of the place licensed. All licenses must be displayed at all times in a prominent place on the premises describing the application and license.

10.0338 SPECIAL EVENT-ALCOHOL BEVERAGE PERMIT:

(a) Authorization and fee. The City Council may by special permit authorize an alcoholic beverage license fee to engage in a sale of alcoholic beverages at special events on such premise as may be designated by such permit. The fee for such local special permits shall be Twenty-five DOLLARS (\$25.00), and such permits shall not be valid for a period greater than fourteen (14) consecutive days.

(b) Application for permits. An alcoholic beverage licensee desiring to conduct a special event where alcoholic beverages will be sold, or to sell alcoholic beverages at a special event by any other persons who have been granted a permit to do so by the governing body, shall make an application for a special permit to do so by the governing body. The applications shall set forth:

1. The name of the applicant;
2. The time and period for which the permit is desired;
3. The place where such special event is to be conducted or held; and
4. The description upon which the event is to be held, which shall include a description of the manner in which the area is enclosed, and how the dispersal of liquor will be controlled and policed.

(c) Refusal and revocation of permit for cause. The governing body of the City shall refuse to issue such permit and shall revoke a permit already issued, where it appears that:

1. The permitted site is or is likely to become a public nuisance or detrimental to public morals;
2. Alcoholic beverages or controlled substances are being sold or given away except as provided by such permit;
3. Any of the ordinances of this City or of the laws of the state are being violated; or
4. In the sole judgment of the governing body, protests to the issuing of such permit are made, either orally or in writing, by a sufficient number of the people living in the neighborhood of the site for which application for such permit is made to warrant refusal or revocation of such permit as

being in the public interest.

(d) If such application is approved, the City Auditor shall issue such permit for the period specified and shall state such other conditions as the City Council may direct. Failure to comply with the conditions shall be grounds for revocation of the permit.

(e) State and local laws apply. The sale or dispensation of alcoholic beverages pursuant to a permit issued under this section shall fully comply with all state laws and with the remaining provisions of this Chapter which are inconsistent with the purposes and intent of this section.

10.0339 CHANGE OF LOCATION OF LICENSED PREMISES: No change of location of a licensed premises shall be permitted or considered unless the licensee shall first make a written application for such change to the City Council clearly stating when and to what location the change is requested. After the receipt of such written application, public notice thereof shall be given by publication one time in the official newspaper of the City advising the general public of the time and place, not less than thirty days and not more than sixty days after the publication of such notice, when the City Council shall meet to consider such application for change of location as well as any other applications for alcoholic beverage licenses that may be submitted. Such an application for change of location may be granted only upon the majority vote of all of the members of the City Council.

It is the intention hereby to serve notice on all concerned that change of locations of retail liquor establishments shall not necessarily be freely granted and that the policy of the City Council shall be to deny such requests if it appears that the change is in effect the granting of a new license to a different type of establishment as distinguished from a simple change of location of an existing retail business.

10.0340 TRANSFER: No license issued under the provisions of this Chapter shall be transferable by any licensee, unless otherwise specified, and any attempt to do so shall constitute a violation of this Ordinance; provided, however, that upon the death of the licensee, the license may be transferred to the personal representative of such deceased licensee. For purposes of this section, the transfer of twenty-five percent (25%) or more of the capital stock of any licensee corporation or the change in the vesting of voting rights of over twenty-five (25%) of the stock of the licensee corporation shall be considered a transfer of change of ownership, and in such event, a new license must be obtained by such corporation.

10.0341 TRANSFER OF OWNERSHIP OF BUSINESS: Should any owner of an establishment licensed for the sale of alcoholic beverages hereafter decide to sell or convey the same to any other party, it shall be necessary that such licensee serve written notice of such intention upon the City Council at least thirty days prior to the intended date for the transfer of such business specifying in particular the identity of the prospective purchaser and any other information concerning the transfer requested by the City Council. In order for any purchaser of any establishment licensed for the sale of alcoholic beverages to be eligible to obtain a license in his own name, such prior approval of the transfer of the business must be obtained from the City Council as herein set forth. At such hearing both the seller and the purchaser shall be required to

appear and answer any questions concerning the sale or transfer as may be propounded to them by the City Council or by any interested person.

For purposes of this section, any sale or transfer of the licensed premises to any individual, partnership, trustee or corporation shall be considered a change of ownership. Also, the transfer of twenty-five (25%) or more of the capital stock of any licensee corporation or the change in the vesting of voting rights of over twenty-five (25%) of the stock of the licensee corporation shall be considered a change of ownership, and the hearing provided for herein shall then be held. It is the intention, with the enactment of this section, to prohibit any transfer of retail alcoholic beverage establishments unless the purchaser to such proposed arrangement has first obtained reasonable assurance that he is eligible for and will be granted a license by the City. At the hearing to be held by the City Council, as provided for herein, there shall be received and considered any applications for new licenses that anyone may wish to submit, and notice of such new applications shall be given simultaneously with the notice of the hearing on the transfer.

10.0342 USE OF OFF-SALE LICENSE FOR ON PREMISES CONSUMPTION: A licensee holding an off-sale license for the sale of alcoholic beverages shall not permit the consumption of liquor on the premises licensed but shall be licensed only to sell to purchasers of liquor in the original package to be taken from the premises.

10.0343 REVOCATION AND SUSPENSION BY CITY COUNCIL GENERALLY:

(a) Mandatory review of license. Upon any conviction of any licensee or any of its agents, servants or employees for any violation of any Ordinance of the City or any law of the state concerning the operation of management of such establishment, the City Council shall within thirty (30) days thereafter meet and review the status of such license and thoroughly investigate the facts and circumstances surrounding such violation. If the facts so warrant, the City Council shall then take appropriate action against such licensee which may include a suspension or revocation of license.

(b) Permissive suspension and revocation. Any license issued pursuant to this Ordinance may be revoked or suspended by cause by the City Council, which cause shall include, among other grounds, the following:

1. When a licensee is adjudged bankrupt.
2. When the licensee has violated any of the provisions of this Ordinance.
3. When a licensee has made any false statement or statements in an application for the issuance of such license.
4. When the licensee has been convicted of a violation of any serious crime under the laws of the United States or of any state.
5. When the licensee ceases to be a legal, bona fide resident and citizen as required by this Ordinance to be eligible for a license.

6. When the license or permit of the licensee from the United States government or from the state to sell alcoholic beverages at the location licensed has been terminated or has been revoked.
7. When the business of the licensee at the location licensed has been conducted in violation of the health or sanitary regulations of the City or of the state.
8. When the licensee, if an individual, or one of the partners if the licensee is a partnership, or one of the officers or managers if the licensee is a corporation, is convicted in the police magistrate court of drunkenness or disorderly conduct or if an appeal is taken from such conviction, then when such conviction is sustained by the higher court or courts.
9. When, in the opinion of the City Council, the licensee has conducted his business or permitted his business to be conducted in a disorderly manner or in a manner that is dangerous or detrimental to the public welfare and morals.

(c) Refunds on suspension; period of suspension. When any license is revoked or suspended for any of the reasons set forth herein or for any other reason, no portion of the license fee shall be returned to the licensee or to anyone claiming under him. The period or periods of suspension that may be adopted by the City Council can be for whatever length they deem proper and advisable in view of all of the circumstances, but the mandatory provisions for review of licenses above set forth must be strictly adhered to.

10.0344 REVOCATION, SUSPENSION, OR REFUSAL TO ISSUE LICENSE; RIGHT TO NOTICE AND HEARING:

(a) Whenever the City Council shall revoke, suspend, or refuse to issue a license, it shall be required to send written notification of its decision and the reasons therefor to the affected licensee or applicant. Upon receipt of such written notification the licensee or applicant shall have ten (10) days to file a written notice of intent to appeal the decision of the City Council with the City Auditor; otherwise, the decision of the City Council shall become final.

(b) When a licensee or applicant has properly filed a notice of intent to appeal, he or she shall be entitled to a hearing before the City Council. Such hearings shall be scheduled for the next meeting of the council, or at some other time convenient to both the members of the council and the licensee or applicant, but in no event shall the hearings be scheduled later than ninety (90) days following the council's initial decision to revoke, suspend, or refuse issuance of the license. The hearing shall be open to the public.

(c) At such hearing the licensee or applicant shall be entitled to present witnesses on his behalf. Such witnesses shall be subject to questioning by the members of the City Council. After hearing and considering the testimony, the City Council may announce its final decision, or

may postpone such announcement until its next regularly scheduled meeting. The licensee or applicant shall be entitled to written notice of the council's final decision and the reasons therefor.

10.0345 EFFECT ON IMPOSITION OF OTHER PENALTIES: The revocation or suspension of a license granted under this Chapter shall not be considered as a penalty so as to bar any other penalty being enforced for such a violation.

10.0346 PROHIBITED ACTS:

(a) No live performances are permitted on a licensed premise which contain any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of signers or musicians which are made in connection with their signing or playing of a musical instrument. This restriction applies to all licensed premises.

(b) No live performances are permitted on licensed premises which involve the removal of clothing, garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal of a tie, suitcoat, sportcoat, jacket, sweater or similar outer garments. Incidental removal for purposes of his section shall mean the removal of a garment or article of clothing which is not a part of the act or performance. The restriction applies to all licensed premises.

(c) No entertainment on a licensed premise shall contain:

1. The performance of acts, or simulated acts, or sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;
3. The actual or simulated displaying of pubic hair, anus, vulva or genitals; or the nipples of a female.

This restriction applies to all licensed premises.

10.0347 SPECIAL SUNDAY ALCOHOLIC BEVERAGE PERMIT:

(a) Permit Authorized. A special Sunday alcoholic beverage permit may be issued (to sell "on-sale" alcoholic beverages) to an alcoholic beverage licensee or to a publicly owned or operated facility. The authority to issue a special permit rests solely in the discretion of the City Council. The permit may be effective for more than one Sunday.

(b) Application for Permit. A special permit may be granted only upon proper application to and approval by the City Council. The application for a special Sunday alcoholic beverage permit must be made in writing and accompanied by a fee of \$25.00.

(c) Use of Permit. Under the special permit, alcoholic beverages may be distributed and dancing may be permitted. Dancing and the distribution of alcoholic beverages shall be permitted between the hours of 12:00 noon on the specified Sunday and 1:00 a.m. on Monday, unless otherwise prohibited by this Ordinance. The general public may be permitted to participate in the consumption of alcoholic beverages distributed under the authority of the special permit. The licensee granted the special permit shall enforce the requirements of this section and any other conditions established by the City Council under the permit.

10.0348 PENALTIES:

(a) Any person, partnership, corporation or association violating any of the provisions of this Ordinance shall, upon conviction, be subject to a fine not to exceed one thousand DOLLARS (\$1,000.00) or imprisonment not to exceed thirty (30) days or both; and, in addition, the rights and privileges flowing from any license granted under the terms of this Ordinance may be revoked.

(b) Each day a licensee permits or participates in activity prohibited by this Ordinance shall be considered a separate offense. Each offense shall subject the licensee to the following penalty:

1. A maximum of thirty (30) days in jail, or fine of one thousand DOLLARS (\$100.00), or both; and
2. Revocation or suspension of alcohol beverage license.

ARTICLE 4.

SHOWS, CARNIVALS AND CIRCUSES

10.0401 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.

10.0402 FEES FOR: The fees to secure license to conduct the exhibitions mentioned in the foregoing section shall be as follows:

Any carnival, per day \$25.00
Any circus, per day \$25.00

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 \$100.00 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 or street officer 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 from \$50.00 to \$100.00 to be fixed by the City Council shall be paid at the time of obtaining license to provide for fire and police protection and additional policing in connection with showing of such carnival or circus.

ARTICLE 5.

KEEPING AND STORAGE OF BEES

10.0501 DEFINITIONS:

- (a) Beekeeper shall mean any person, firm, association or corporation owning, possessing, or controlling one or more colonies of bees for the production of honey, beeswax, or by-products, either for personal or commercial use.
- (b) Apiary shall mean any place where one or more hives or colonies of bees are kept.
- (c) Person and owner shall mean natural persons, firms, associations or corporations.
- (d) Bees shall mean any stage of common honey bee, *Apis Mellifera L.*

10.0502 KEEPING BEES WITHIN THE CITY: No person, owner or beekeeper shall after the 1st day of July, 1979, establish, keep, maintain or locate any apiary or colony of bees within the corporate limits of the City of Belfield, Stark County, North Dakota, for commercial pollination or any other purpose whatsoever.

10.0503 STORAGE AND EXTRACTION: No beekeeper shall store, maintain, keep or extract honey, beeswax, or their by-products, within the City limits of the City of Belfield, Stark County, North Dakota.

10.0504 BEEKEEPING EQUIPMENT: Any beekeeping equipment stored within the City limits of the City of Belfield, shall be kept in a closed, dark facility so as not to constitute a public nuisance.

10.0505 PENALTY: Any person who violates or fails to comply with any provision of this Ordinance shall be subject to a fine of not more than \$500.00 or imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

10.0506 EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its final passage and approval.

10.0507 SEPARABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion of this

Ordinance.

ARTICLE 6.

MOVING OF HOUSES, MOBILE HOMES, BUILDINGS AND STRUCTURES

10.0601 MOVING PERMIT: No person shall move any house, building, mobile home or other structure of 200 square feet or more in the City of Belfield without first obtaining a moving permit and paying the sum of \$10.00 therefor and the posting of a bond as hereinafter provided. Prior to obtaining such a moving permit, the owner of the structure to be moved shall provide to the City Auditor the following information:

1. The streets over which said structure is to be moved;
2. The mover shall agree that he will notify the City Auditor forty-eight (48) hours in advance of actual removal of the house, mobile home, building or other structure;
3. The present location of the structure to be moved;
4. The future location of the structure to be moved;
5. A description of the structure to be moved.

10.0601(a): Under no circumstances shall a mobile home more than 15 years old be moved into the City of Belfield, North Dakota, and if so moved it shall be securely and properly anchored. (Ordinance 257).

10.0602 TAXES TO BE PAID: No person shall move any house, building, mobile home or other structure unless it is assessed as personalty or exempt from taxation, until after the taxes and special assessments then due have been paid, nor until the owner shall have paid into the sinking fund for the retirement of any bonded indebtedness of the municipality and amount equal to the just share of the tax which would then be required against the property in the municipality to pay the principal outstanding, less amount in sinking funds, of the bonded indebtedness of the municipality.

10.0603 BOND REQUIREMENT: The applicant for a permit shall post a cash bond in the amount of \$300.00 at the time of applying for a permit for the moving of a mobile home from a private lot and a cash bond in the amount of \$800.00 at the time of applying for a permit for the moving of a house, building or other structure. The cash bond shall be returned to the person posting the same following an inspection by the Building Inspector and/or council member of the premises from which the mobile home or building was moved and the Building Inspector and/or council member notifying the City Auditor that the premises from which the structure was removed has been cleaned and restored as otherwise provided in this Ordinance.

10.0604 LOT CLEAN UP: The structure owner shall have thirty (30) business days

after the structure has been removed from the lot or premises to fill-in any holes or basements, to clean said lot and premises and to remove all debris, wiring and material from said property. Open basements or holes shall be fenced until filled. If the property is not cleaned and restored as required herein within said time, the cash bond shall be forfeited to the City of Belfield and the City of Belfield may, but shall not be required, to enter upon the premises and clean said lot and fill any basements or open holes upon the lot. In the event the bond as posted herein is inadequate to cover the costs of cleaning and restoring the lot, including the backfilling of the basement, the structure owner shall nevertheless remain liable for any costs or expenses incurred in the cleaning and filling of said lot.

10.0605 INSPECTION OF VACATED LOT: The structure owner shall notify the City Auditor when it has completed its moving and clean-up of said lot, following which the Building Inspector and/or council member shall inspect the location from which the mobile home, house, building or structure has been moved, and upon a finding that the location has been satisfactorily cleaned up, the Building Inspector and/or council member shall notify the Auditor in writing of his findings. The Auditor shall assess the owner the actual cost of the inspection required by this provision. All delinquent inspection fees may be recovered by the city in an action at law or such sums may be assessed by the City Auditor against the premises served and collected and returned in the same manner as other municipal taxes are assessed, certified, collected and returned. The Auditor upon receipt of written approval of the manner and method in which the location has been cleaned shall refund the cash bond to the person who has posted the same. If the person inspecting the property determines that the location has not been satisfactorily cleaned and restored, he shall notify the Auditor in writing of his findings and shall specify with particularity in what respects the location has not been properly cleaned.

10.0606 SEWER SYSTEM TO BE CAPPED: After removal of the structure the sewer system must be capped, the basement filled with dirt and the ground leveled. The furnace and water heater must be removed from the basement. The foundation can be pushed in the basement but no extra concrete or other foreign substances may be used to fill the basement.

10.0607 SEPARABILITY CLAUSE: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

10.0608 PENALTY: Any person who violates or fails to comply with any of the provisions of this Ordinance shall be subject to a fine of not more than \$500.00, or by imprisonment of not more than thirty (30) days, or by both such fine and imprisonment

6-11-13 Last Updated
Ordinance No. 305
Passed