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**CHAPTER EIGHT  
BUSINESS REGULATIONS AND LICENSES**

ARTICLE 1 - GENERAL PROVISIONS

8.0101 Licenses

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

8.0102 Licenses - Application

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

8.0103 Licenses - Granting

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

8.0104 Licenses - Term

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

8.0105 Licenses - Not Transferable

No license or permit shall be assignable or transferable except by permission of the City Council. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the

same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

#### 8.0106 Licenses - Revocation

All licenses granted shall be subject to ordinances in force at the time of issuing thereof or which may be subsequently passed by the City Council. Any person who shall violate any provision of this article relating to his/her license may be proceeded against for any fine or penalty imposed thereby, and his/her 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 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.

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

#### 8.0107 Licenses - Posting of

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

#### 8.0108 Licenses - Short Term

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

#### 8.0109 Licenses - Enforcement

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

ARTICLE 2 - TRANSIENT MERCHANTS8.0201 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 limits, either in one locality or in traveling from place to place selling goods, wares and merchandise who does not intend to become and does not become a permanent merchant of the City and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, structure, lots, tract, railroad car or motor vehicles for the exhibition and sale of such goods, wares and merchandise. The person, individual, co-partnership or corporation so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.

*Exceptions:* Local nonprofit groups including but not limited to all churches in Oakes, Boy Scouts, Girl Scouts, Cub Scouts, Teammakers, Oakes Athletics and Music and Arts, Active Arts, Friends of Arts & Academics, Red Cross, Historical Society, Hospice of Red River Valley, Local Fundraisers that support projects in the City of Oakes, ND.

2. "Merchandise" shall not include any livestock or agricultural product.

8.0202 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 peddlers shall not be considered transient merchants.

8.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business within the City 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. (North Dakota Century Code Section 51-04-09)

8.0204 License - Application for

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

1. Applicant's name, present residence, present home address, present business address, and if a corporation, under the laws of what state the same is incorporated;
2. The name, present residence, present home address and present business address of the person or persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the City;

3. The residence, business address and type of business in which applicant has been engaged in the previous two (2) years;
4. 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;
5. The kind of business to be conducted;
6. The name and address of the auctioneer, if any, who will conduct the sale;
7. 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 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.

#### 8.0205 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/her true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the business transacted under the 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. This instrument shall also contain recitals to the effect that the applicant for license consents and agrees that service of any notice or process may be made upon said agent, and when so made shall be taken and held to be as valid as if personally served upon the person or persons applying for the 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 acknowledgement 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/her last known address, by registered mail, a copy of said process.

#### 8.0206 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 a 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.

#### 8.0207 Transfer

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

#### 8.0208 Enforcement by Police

It shall be the duty of the police 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.

#### 8.0209 Revocation

1. Any license issued pursuant to this article may be revoked by the City Council, 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/her last known address at least five (5) days prior to the date set for the hearing.

#### 8.0210 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.

*Exceptions:* Residential home businesses (cottage industries) do not come under the provision of this section and are exempt. All local non-profit, religious, charitable and education organizations do not come under the provisions of this section and are exempt.

### ARTICLE 3 - HAWKERS AND PEDDLERS

#### 8.0301 Definitions

The word "person" as used herein shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership or society or any other organization. The words "hawker" and "peddler" as used herein shall include any person, whether a resident of the City or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares or merchandise, offering and exposing the same for sale, or making sales and delivering articles to purchasers. The words "hawker" and "peddler" also include any person who, without traveling from place to place, shall sell or offer the same for sale from an automotive vehicle, railroad car or other vehicle or conveyance. One who solicits as a part of a scheme or design to evade the provisions of this article shall be deemed a hawker or peddler subject to the provisions of this article.

8.0302 License Required

It shall be unlawful for any person to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefore.

8.0303 Exceptions

No license shall be required for peddling, vending or marketing farm products raised in the State of North Dakota, fish, vegetables, fruits, nuts, cake, candy, ice cream or other light products or refreshments.

8.0304 License - Application for

Applicants for license under this article must file with the city auditor a sworn application in writing, which shall give the following information:

1. Name, age and sex of the applicant;
2. Address (legal and local);
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
5. The length of time for which the right to do business is desired;
6. If a vehicle is to be used, a description of the same, together with license number; and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

8.0305 Fees

The license fee to be required of all hawkers and peddlers for the transaction of business within the City shall be in the sum of \$25.00 per day for each day or portion of the day which any such hawker or peddler shall transact business in the City.

8.0306 Exhibition of License

Hawkers and peddlers are required to exhibit their licenses at the request of any citizen.

8.0307 Transfer

No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

8.0308 Use of Streets

No hawker or peddler shall have any exclusive right to any location in the public streets nor shall any be permitted to a stationary location nor shall be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

8.0309 Enforcement

It shall be the duty of any police officer of this City to require any person seen hawking or peddling, and who is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this article against any person found to be violating the same.

8.0310 Revocation

1. Licenses issued under the provisions of this article may be revoked by the City Council after notice and hearing for any of the following causes:
  - a. Fraud, misrepresentation or false statement contained in the application for license;
  - b. Fraud, misrepresentation or false statement made in the course of carrying on his/her business;
  - c. Any violation of this article;
  - d. Conviction of any crime or misdemeanor involving moral turpitude;
  - e. Conducting the business of hawking or peddling in an unlawful manner or in such a manner as to constitute a breach of peace or constitute a menace to the health, safety or general welfare of the public.
2. Notice of a hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address at least five (5) days prior to the date set for the hearing.

ARTICLE 4 - RUNNERS, SOLICITORS AND CANVASSERS8.0401 Definitions

A "runner," "canvasser" or "solicitor" is defined as any individual, whether resident of the City or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. The definition shall include any person who, for himself/herself, or for another person, firm or corporation hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

8.0402 Exceptions

No license shall be required hereunder for runners, solicitors or canvassers of regular retailers of goods, wares and merchandise and personal property, but only for those runners, solicitors and canvassers selling directly to the consumer.

8.0403 License Required

It shall be unlawful for any person to engage in the business of runners, solicitors and canvassers of any merchandise, article or thing without having first secured a license therefore.

#### 8.0404 License - Application for

Applicants for license under this article must file with the city auditor a sworn application in writing, which shall give the following information:

1. Name, age and sex of the applicant;
2. Address (legal and local);
3. A brief description of the nature of the business and the goods to be sold;
4. If employed, the name and address of the employer, together with credentials establishing the exact relationship;
5. The length of time for which the right to do business is desired;
6. If a vehicle is to be used, a description of the same, together with license number; and
7. A statement as to whether or not the applicant has been convicted of any crimes, misdemeanors or violations of any municipal ordinance, the nature of the offense and punishment or penalty assessed therefore.

#### 8.0405 Fees

The license fee to be required of all runners, solicitors and canvassers for the transaction of business within the City shall be in the sum of twenty-five dollars (\$25.00) per day for each day or portion of the day which such runner, solicitor or canvasser shall transact business in the City.

#### 8.0406 Exhibition of License

Runners, solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

#### 8.0407 Transfer

No license issued under the provisions of this article shall be transferred or used at any time by any person other than the one to whom it was issued.

#### 8.0408 Use of Streets

No runner, solicitor or canvasser shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location nor shall be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

#### 8.0409 Enforcement

It shall be the duty of any police officer of this City to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his/her license and to enforce the provisions of this article against any person found to be violating the same.

#### 8.0410 Suspension and Revocation

1. Licenses issued under the provisions of this Chapter may be immediately suspended by Order and personal service of the Order by the Police

Department upon the runner, solicitor, canvasser, hawker, peddler, and/or transient merchant. Said suspension of business order may be issued by the police department if it has received and substantiated the information from a complaining party; or if the police department has personal knowledge of fraud, misrepresentation and/or actions constituting a menace to the welfare of the city and the general public it may suspend said licenses.

Licenses issued under the provisions of this article may be revoked by the City Council after notice and hearing, for any of the following causes:

- a. Fraud, misrepresentation or false statement contained in the application for license;
  - b. Fraud, misrepresentation or false statement made in the course of carrying on his/her business;
  - c. Any violation of this article;
  - d. Conviction of any crime or misdemeanor involving moral turpitude;
  - e. Conducting the business of soliciting and canvassing in an unlawful manner or in such a manner as to constitute a breach of peace or constitute a menace to the health, safety or general welfare of the public.
2. Said license shall remain suspended and revoked unless the party whose license is revoked requests a hearing before the City Council on the license revocation.

Notice or request of a hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address at least five days prior to the date set for the hearing.

Once a notice for hearing is filed with the city auditor, a hearing shall be held prior to the next regular City Council meeting, unless the parties agree to meet for a hearing at a more convenient date and time.

#### ARTICLE 5 - SOLICITATION WITHOUT INVITATION

(repealed)

#### ARTICLE 6 - ALCOHOLIC BEVERAGES

##### 8.0601 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. "Licensee" shall mean any person, firm, corporation, association or club which shall have secured a license pursuant to provisions of this chapter or their agent or employee.
4. "Liquor" shall mean any alcoholic beverage except beer.
5. "Person" shall mean and include any individual, firm, corporation, association, club, co-partnership, society or any other organization; and shall include the singular and the plural.

6. "Sale" and "sell" shall mean all manner or means of furnishing alcoholic beverages, including the selling, exchange, barter, disposition of and keeping for sale of such alcoholic beverages.
7. "Package" and "original package" shall mean and include any container or receptacle containing an alcoholic beverage, which container or receptacle is corked or sealed by the manufacturer thereof and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser.
8. "Club" or "lodge" shall include any corporation or association organized for civic, fraternal, social or business purposes or the promotion of sports, which has at least 20 members at the time of application for license.
9. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.

#### 8.0602 Exceptions

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

#### 8.0603 License Required

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

#### 8.0604 Establishing Off-sale Liquor and Beer Only

No person shall sell at retail, off-sale only, alcoholic beverages without first having obtained an off-sale liquor license for retail sale.

#### 8.0605 Licenses - Classes of - Fees (North Dakota Century Code Section 5-02-03)

The City shall determine on a case by case basis if on- and off-sale beer and on- and off-sale liquor licenses shall be approved.

Each applicant may be denied or granted base on the merits of each individual application to the City.

On & Off Sale Beer & Liquor License annual fee of \$2500.00  
 (Beer License only annual fee of \$500.00 and Liquor License only annual fee of \$2000.00)  
 Off Sale Beer & Liquor License annual fee of \$1250.00  
 (Beer License only annual fee of \$250.00 and Liquor License only annual fee of \$1000.00)  
 On Sale Beer & Liquor License annual fee of \$1750.00  
 (Beer License only annual fee of \$350.00 and Liquor License only annual fee of \$1400.00)

#### 8.0606 Special Permits

The City Council may, by special permit, authorize on-sale, off-sale, or on-or off-sale alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events on licenses premises as may be designated by the permit. The city shall charge a special permit fee of \$25.00. Any permit allowed by this ordinance shall not be valid for a period greater than three consecutive days. (North Dakota Century Code 53-02-01)

The City Council will decide on a case by case basis when a special permit is to be authorized. It will determine if the permit application is for a special event that falls within the intent of the law.

The City Council will entertain and act on special permit applications that are filed with the city auditor 30 days prior to the date of the schedule event. In addition hereto, the Council may hold a special meeting to determine whether a specific application should be granted if it is filed within that 30 day period. However, the Council will be under no legal obligation to hold said special meeting. The purpose of the 30 day limit is to allow adequate time for review of the application by the ND State Attorney General's Office.

All special permit authorizations shall be by an affirmative vote of no less than four City Council members.

#### **Resolution Passed January 13, 1998**

*Be it resolved by the Oakes City Council that a Special Events-Restricted Retail Alcoholic Beverage, Liquor and Beer License shall be issued on an annual basis to Donna Cine and Harry Cline, a ND corporation for the retail sale of alcoholic beverages and beer and wine products.*

*The initial license shall run from January 1, 1998, to July 1, 1998. Thereafter, any restricted license shall run for a twelve month period beginning July 1 to June 30. The license will be issued for on-premises sale only; no off-sale.*

*The special events license shall be for no more than twenty-five (25) events throughout the period of the license. The licensee shall notify the city auditor as least 14 days prior to any event held under the terms of this restricted license and give the date and the event to the city auditor.*

*The license is nontransferable and is only for the site known as The Guest Haus.*

*The annual fee shall be paid with the application in the amount of \$400 for the liquor license and \$100 for the beer license.*

*The license must also have a valid State of North Dakota Alcoholic Beverage, Liquor and Beer License issued by the ND Attorney General's Office.*

8.0607 Licenses - Terms of

1. All licenses issued hereunder shall be for a period of not more than one (1) year and shall expire on the 30th day of June in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of whole months which said license will be in effect.

8.0608 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 legal resident of the United States, a resident of the State of North Dakota and a person of good moral character.
2. If applicant is a corporation, the manager of the licensed premises and the officers, directors and stockholders must be legal residents of the United States and persons of good moral character. Corporate applicants must first be properly registered with the Secretary of State
3. If applicant is a co-partnership, all the members must be legal residents of the United States and of good moral character.
4. Applicant or manager must not have been convicted of a felony.
5. Building in which business is to be conducted must meet local and state requirements regarding the sanitation and safety.
6. Taxes and City utilities on property for which application for license is made must not be delinquent.
7. If applicant's place of business is to be conducted by a manager or agent, said manager or agent must possess the same qualifications required of the licensee.

8.0609 Application for Liquor License

Any person desiring a license to sell alcoholic beverages at retail as hereinbefore described shall make and present a written verified application to the City Council 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.
3. The legal description and the address of the premises for which license is sought.

4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.
7. Whether the applicant has ever had a license revoked or cancelled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling the same and the reason for such cancellation.
8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of place and courts in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation and the reasons assigned therefore.
10. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed and the court in which convicted.
11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management or control of the establishment for which license is sought.
12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.
13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, within the borders of the United States.
14. The occupations that the applicant has followed during the past five years.
15. The names and addresses of at least three business references.
16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
17. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an employee, the name and address of the employer.
18. The classification of license applied for.
19. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized and the purpose for which

profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the City Council a list of the members belonging to such lodge or club.

20. A statement by the applicant that he/she consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.

#### 8.0610 License - Application Fitness

The chief of police or such other person or officer as may be designated by the City Council 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 City Council.

#### 8.0611 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 and shall be filed with the board. 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 regulations.
2. Public health and sanitation.
3. Proximity of other licensed businesses.
4. Proximity of schools, churches, funeral homes, public buildings or buildings used by or for minors.
5. Any protests of neighboring property owners or occupants.
6. Zoning regulations.
7. Proposed on- or off-sale or both licensee.
8. Interference with or proximity to residential property.
9. Interference with neighboring property.
10. Suitability of premises for sale of beer, liquor or alcoholic beverages.
11. Public convenience and necessity.

#### 8.0612 License - Granting

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

#### 8.0613 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.

#### 8.0614 License - Posting of

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

8.0615 License - Transfer of

When any licensee voluntarily ceases his/her business, the new licensee and owner shall upon the approval of the City Council assume the unused portion of the license fee for that year. In consideration for said assumption, the new licensee will pay to the City a transfer fee for the license in the amount of \$250.00.

When beer licensee voluntarily ceases his/her business, the new licensee and owner shall upon the approval of the City Council assume the unused portion of the license fee for that year. In consideration for said assumption, the new licensee will pay to the City a transfer fee for the license in the amount of 10% of the value of the beer license fee previously paid to the City.

8.0616 License Fees - Disposition of

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

8.0617 Hours and Time of Sale - Penalty

No person can dispense or permit the consumption of alcoholic beverages on a licensed premises on-sale/off-sale premises after two o'clock (2:00) a.m. on Sundays, before eight o'clock (8:00) a.m. on Mondays or between the hours of two o'clock (2:00) a.m. and eight o'clock (8:00) a.m. on all other days of the week.

A retail on-sale/off-sale license holder cannot dispense or sell or permit such consumption on the premises after one o'clock (1:00) a.m. on Thanksgiving Day, on Christmas Day, or after six o'clock (6:00) p.m. on Christmas Eve.

A violation of this ordinance is a violation of state law under ND Century Code Section 5-02-05 and is a Class A Misdemeanor that will be processed through District Court.

8.0618 Sunday Sale of Liquor

Anyone licensed by the City Council to sell alcoholic beverages may apply to the City Council for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to 2:00 A.M. on Mondays. The authority for issuing the permit rests solely with the City Council. The cost of this permit shall be \$25.00 per year and shall be paid at the same time the on/off sale beer/liquor permits are paid. This permit shall be for both on sale and off sale of liquor and beer. (North Dakota Century Code Section 5-02-05, 5-02-05.1)

Anyone who dispenses, sells or permits the consumption of alcoholic beverages in violation of this ordinance and ordinance 8.0617, or who furnishes false or misleading information in applying for a permit is guilty of a Class A Misdemeanor that will be processed through District Court. (North Dakota Century Code Section 5-02-05.1)

8.0619 Licensee's Responsibility

Every licensee is hereby made responsible for the conduct of his/her 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.

#### 8.0620 Gambling Prohibited - Exceptions

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

Any eligible organization not required to be licensed by the Attorney General in the State of North Dakota, these being all eligible organizations which do not maintain a building for the use of its members and guests and offer meals or liquor or both as part of its operation shall apply in writing to the governing body of the city for permission to conduct games of chance at least 30 days prior to each occasion, stating the particular game of chance, time, place, and educational, charitable, patriotic, fraternal, religious, or other public comparable uses to which the proceeds will be devoted. The governing body may at its own discretion, and upon application by an eligible organization grant permission for such games for specifically designated times, places, and uses covering a period of one year. Fees for such permission or authorization shall be in the amount of \$10 for one occasion, and in the amount of \$25 for an authorization covering more than one occasion for a period up to and including one year. A copy of each resolution or permit granted by the city under this ordinance shall be sent to the Attorney General not later than 30 days after issuance.

Those establishments which are subject to Class A or Class B games of chance licenses by the State of North Dakota shall be required to submit a license fee to the City of Oakes, not to exceed \$100. Amount of said fee to be set by the City Council of Oakes.

All games of chance site whether Class A or Class B shall be subject to approval by the City Council of Oakes.

#### 8.0621 Cashing Certain Checks Prohibited

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

#### 8.0622 Sales Prohibited - Persons

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

#### 8.0623 Minors in Licensed Premises

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

#### 8.0624 Age Identification

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

#### 8.0625 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited unless permitted to do by City Council upon approval of application thereof.

#### 8.0626 Premises, Equipment of

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

#### 8.0627 Closed or Screened Areas

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

#### 8.0628 Purchase from Licensed Wholesaler

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

#### 8.0629 Toilets Required

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

#### 8.0630 Deliveries - Off Licensed Premises

1. It shall be unlawful for any person, firm or corporation engaged in the retail sale of liquor, beer or alcoholic beverages to make, or cause to be made any deliveries outside of the licensed place of business of beer, liquor or other alcoholic beverages to any purchaser or prospective purchaser.
2. It shall be unlawful for any person, firm or corporation to deliver by foot, carrier or motor carrier, any beer, liquor or alcoholic beverage to any

person within the city limits provided however, that this section shall not apply to deliveries made by a licensed wholesaler dealer to a licensed retail dealer.

8.0631 Termination or Revocation of Licenses

1. Licenses issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one or more of the following contingencies:
  - a. The death of the licensee unless upon application to the City Council by personal representative of the decedent, the City Council shall consent to the carrying on of the business by the personal representative.
  - 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 has been convicted of the violation of any provision of this article, or of the laws of the State of North Dakota pertaining to alcoholic beverages or of a felony under the laws of the United States, the State of North Dakota or of any other state of the United States.
  - e. When the licensee ceases to possess the qualifications required of an applicant for a license as set out in this article.
  - f. When the license or permit of the licensee from the United States Government or the State of North Dakota to sell alcoholic beverages at the location licensed has been terminated or been revoked.
  - g. When the licensee ceases to be a legal bona fide resident and citizen of the State of North Dakota.
2. License issued pursuant to this ordinance may, in the discretion of the City Council, 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 City Council for any cause deemed by said City Council 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/her business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him/her.

8.0632 Penalties

Any person, firm, corporation or association violating any of the provisions of this article shall upon conviction thereof, be subject to a fine of not to exceed five hundred dollars (\$500.00), or to imprisonment of not to exceed thirty (30) days; or in the discretion of the court to both such fine and imprisonment; and in addition to both such fine and imprisonment all powers, right and privileges given by any license granted under the terms of this article may be terminated or revoked in accordance with section 8.0631 of this article.

ARTICLE 7 - SHOWS, CARNIVALS AND CIRCUSES  
(repealed)ARTICLE 8 - VALIDITY8.0801 Validity

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

ARTICLE 9 - PENALTY8.0901 Penalty

Any person, firm, corporation or association violating any of the terms, articles or provisions of this chapter, for which a specific penalty is not prescribed, shall upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment in the discretion of the court. The court shall have the power to suspend such sentence and to revoke the suspension thereof. The court may, in addition thereto, revoke the permit of such violator, or terminate or revoke all powers, rights and privileges given by any license granted under the terms of this chapter. Each day or part thereof that a person shall be in violation of the provisions of this chapter shall be considered a separate violation thereof.