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CHAPTER EIGHT

BUSINESS REGULATIONS AND LICENSES

ARTICLE 1 - General Provisions

8.0101 Licenses

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

8.0102 Licenses - Application

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

8.0103 Licenses - Granting

The city auditor shall receive applications for licenses and permits and grant the same in all cases where expressly authorized upon the terms and conditions specified by ordinance. If the city auditor 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 governing board for their action thereon.

8.0104 Licenses - Term

1. No license or permit shall be granted for a longer period than one (1) year.
2. All yearly licenses or permits shall commence on the first day of January in each year and expire on the last day of December in each year. All semi-annual licenses or permits shall commence on the first day of January and 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.
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 governing body. No person other than the person to whom the license is granted shall be authorized to do business or act under such license or at any other than the place specified therein. The City may grant the continuance of the business licensed to any other portion of the City, such permission to be certified on the license by the city auditor. No license shall authorize any person to act under it at more than one (1) place at the same time, or at any other place than is therein specified. Whoever shall violate any of the provisions of this section shall be deemed to be acting without a license and shall be subject to the same penalty as prescribed for acting without a license.

#### 8.0106 Licenses - Revocation

All licenses granted shall be subject to ordinances in force at the time of issuing thereof or which may be subsequently passed by the City's governing body. Any person who shall violate any provision of this article relating to his license may be proceeded against for any fine or penalty imposed thereby, and his license may be revoked or forfeited in the discretion of the governing body or the court before which any action may be brought for the recovery of any fine or penalty. Where not otherwise provided, any license may be revoked by the governing board at any time for cause. "Cause" shall include, but not be limited to, the following:

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

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

When the license is terminated or revoked for cause, the licensee or those claiming under 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 Merchants

#### 8.0201 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.
2. "Merchandise" shall not include any livestock or agricultural product.

3. Exception: This does not include school related activities.

#### 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 that peddlers shall not be considered transient merchants.

#### 8.0203 License Fee

The license fee to be required of all transient merchants for the transaction of such business 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. (Source: 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 residence, business address and type of business in which the person having the management or supervision of applicant's business has been engaged in the previous two (2) years;
5. The place or places in the City, where it is proposed to carry on applicant's business, and the length of time during which it is proposed that said business shall be conducted;
6. The kind of business to be conducted;
7. The name and address of the auctioneer, if any, who will conduct the sale; and

8. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by applicant in the City, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or 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 produces, and where such goods or products are located at the time said application is filed.

8.0205 Indemnification

Each transient merchant shall indemnify the City for any loss or damage resulting from the transient merchant doing business.

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 there governing body of the City, after notice and hearing for any of the following causes:
  - a. Any fraud, misrepresentation
  - b. Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise;
  - c. Any violation of this article, including the failure to carry the license and produce it upon request.

- d. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
- e. Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

- 2. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five (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.

ARTICLE 3 - Solicitation Without Invitation

8.0301 Solicitation Without Invitation Prohibited

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

8.0302 Enforcement

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

ARTICLE 4 - Alcoholic Beverages

8.0401 Definitions For the purpose of this article:

- 1. "Alcoholic beverages" shall mean any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
- 2. "Beer" shall mean any malt beverage containing more than one-half of one percent of alcohol by volume.



3. "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 200 members at the time of application for license.
9. "Retail sale" shall mean the sale of alcoholic beverages for use or consumption and not for resale.
10. "Off-sale" shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises where sold, and an off-sale license shall authorize the person named therein to conduct such off-sales only at the place designated in such license and not elsewhere, and shall not permit the opening of the package sold on the premises where sold. Such sale must in each case be completed by delivery of the liquor sold to the actual purchaser thereof on the licensed premises.
11. "On-sale" shall mean the sale of alcoholic beverages for consumption only on the premises where sold, and an on-sale license shall authorize the licensee to conduct such on-sales only at the place designated in such license and not elsewhere.
12. "Off-sale Wine/Champagne" shall mean the sale of wine/champagne in it's 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 wine/champagne sold to the actual purchaser thereof on the licensed premises.

8.0402 Exceptions

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

8.0403 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.

8.0404 License Fees: Manner of Payment:

1. The fee for an "On and Off Sale" License for a period of one (1) year, commencing January 1, and ending on December 31 of each year, shall be \$1,500.00, due and payable at the time of filing of applications for license, provided, however, that said amount may be paid in two installments of \$750.00 on January 1, and July 1, of each year.
2. The fee for an "Off Sale" license for a period of One (1) year, commencing on January 1, and ending on December 31 of each year, shall be \$800.00 due and payable at the time of filing of the application for a license, provided, however, that said amount may be paid in two (2) installments of \$400.00 each on January 1 and July 1 of each year.
3. All license fees must be paid in cash, money order or certified funds.
4. The fee for "Club or Lodge" "On Sale" license for a period of one (1) year commencing January 1 and ending December 31 of each year shall be \$750.00, due and payable at the time of filing of an application for a license, provided, however, that said amount may be paid in two (2)

installments of \$375.00, each on January 1 and July 1 of each year.

5. The fee for an "On Sale Beer" only license for a period of one (1) year commencing January 1 and ending December 31 of each year shall be \$375.00, due and payable at the time of filing an application for a license, and if granted on each January 1 thereafter.
  6. All liquor or beer license holders must be given thirty (30) day written notice prior to passage of the resolution to make future fee increases valid.
  7. The number of retail licenses shall be at the discretion of City Council.
  8. The fee for an "Off Sale Wine/Champagne" License for a period of One (1) year, commencing on January 1, and on December 31, of each year shall be \$ 400.00 due payable at the time of filing of application for a provided, however, that said amount may be paid in (2) installments of the \$200.00 each on January 1 and of each year.
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July 1

8.0405 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 31st day of December in each year. Where a license is granted for a period less than one (1) year, any subsequent renewal thereof must be made for the full annual term.
2. If an application is made for license hereunder during the license year for the unexpired portion of such year, the fees for said license shall be proportional to represent the number of whole months which said license will be in effect.

8.0406 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 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.

#### 8.0407 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 governing body of this City, filed with the city auditor, containing the following information:

1. The name and address of the applicant; if the applicant is a co-partnership, the name and address and place of residence of each member of said co-partnership; if the applicant is a corporation, the name and address of the officers of the corporation and the manager of the licensed premises.
2. Whether the applicant is a citizen of the United States, and if a naturalized citizen, the date and place of naturalization and place of residence of the applicant for a period of one year last preceding the date of application; if the applicant is a co-partnership the same preceding information for each member of said co-partnership; and if the applicant is a corporation, the date of incorporation, the state where incorporated, the purpose for which said corporation was incorporated and if such corporation is a subsidiary of any corporation, the name of the parent corporation.
3. The legal description and the address of the premises for which license is sought.
4. The date on which the applicant acquired title to the premises sought to be licensed, and if the applicant does not have title to said premises, the name and address of the owner of the premises together with a copy of the applicant's lease, if written, under which he holds possession of said premises.
5. Whether there are any delinquent taxes against the premises sought to be licensed.
6. Whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application, and if so, the date and type of business and

place where so engaged whether within or without the State of North Dakota, the date the applicant first began to operate.

7. Whether the applicant has ever had a license revoked or cancelled by a municipal, state or federal authority, and if so, the date of such cancellation, the place and authority canceling the same and the reason for such cancellation.
8. Whether the applicant has ever been convicted of the violation of any law of the United States or of any state, or of the violation of any local ordinance with regard to the manufacture, sale, distribution or possession of alcoholic beverages, and if so, the dates, names of place and courts in which said convictions were had.
9. Whether the applicant has ever had a license for the sale of alcoholic beverages revoked for any violation of state laws or local ordinances, and if so, the names of the bodies revoking such license, the dates of such revocation and the reasons assigned therefore.
10. Whether the applicant has ever been convicted of any other crime than stated in subsections (8) and (9) hereof, in this state or any other state, or under any federal law, and if so, the date of such conviction, the name of the crime for which convicted, the amount and terms of sentence passed and the court in which convicted.
11. The name and address and the place of residence for a period of one year prior to the date of application of any person who will have charge, management or control of the establishment for which license is sought.
12. Whether any other person than the applicant has any right, title, estate or interest in the leasehold or in the furniture, fixtures or equipment in the premises for which license is sought, and if so, the name and address of such person together with a statement of the interest so held.
13. Whether the applicant has any interest whatsoever directly or indirectly, in any other establishment dispensing alcoholic beverages, either at wholesale or retail, within or without the State of North Dakota, and if so, the names and addresses of such establishments. This provision is meant to include the holders of capital stock in any corporation dealing in alcoholic beverages, either at wholesale or retail, within the borders of the United States.
14. The occupations that the applicant has followed during the past five years.
15. The names and addresses of at least three business references.

16. Whether the applicant is rated by any commercial agency, and if so, the name and address of said agency.
17. Whether the applicant is engaged in any other business or intends to be engaged in any other business than the sale of alcoholic beverages under the license for which application is made, and if so, the type of business, and if an employee, the name and address of the employer.
18. The classification of license applied for.
19. If the applicant is a lodge or a club, the date of organization, the number of members, the purpose for which organized and the purpose for which profits to be derived from the sale of alcoholic beverages are to be applied; and whenever required by the governing body a list of the members belonging to such lodge or club.
20. A statement by the applicant that he consents to entry and inspection of the premises for which license is sought or any part thereof at any time by any police officer, sheriff or any peace officer of this City or of the State of North Dakota.
21. Bond Required - No public retail "On and Off Sale" or public retail "Off Sale" license shall be issued until the applicant shall file a surety bond issued by a company authorized to do business in the State of North Dakota, to be approved as to legality and form by the City Attorney, and as to sufficiency by the City Council. The bond shall be payable to the State of North Dakota and the City of Harvey, North Dakota, and shall be in amounts as follows:

For a public retail "On Sale" license the sum of \$2,000.00

For a public retail "On and Off Sale" license the sum of \$2,000.00

For a public retail "Off Sale" license the sum of \$1,000.00

Provided, however, that in lieu of such bond the applicant may deposit cash or bonds of the State of North Dakota, or of the United States of America, of the market value herein stated. All bonds shall be conditioned as follows:

1. That the licensee will obey all laws of the State and Ordinances of the City of Harvey relating to the sale and dispensing of beer, intoxicating liquor and alcoholic beverages on the licensed premises.
2. That the licensee will pay when due all taxes, license fees, penalties and other charges provided by law.

3. That in the event of any violation of law or ordinance relating to the regulation and control of the business for which the license was granted, the bond shall be forfeited for the amount of the penalties assessed in favor of the municipality issuing the license.
4. That the licensee will pay, to the extent of the principal amount of the bond, any damages for death or injury caused, or resulting from, the violation by licensee, his employee or agent, of any provisions of the laws of the State, or the ordinances of the City of Harvey relating to the regulation and control of the business for which the license was granted. Provided, further, that such recovery may be had also against the surety on the bond.
5. The amount specified in the bond is hereby declared to be a penalty, and the amount recoverable shall be measured by the actual damages suffered; provided, however, that a surety thereon shall not be liable for any amount in excess of the penal amount of the bond. All bonds shall be for the benefit of the obligee and of all persons suffering damages by reason of the default of the licensee, his employee or agent in any of the conditions thereof. Such bonds shall run to the State of North Dakota and the City of Harvey as obligees, and in the event of forfeiture of any such bond, or violation of law or of the ordinances of the City of Harvey, the District Court may forfeit the penal sum of said bond to and in favor the obligees.
6. In the case of the deposit of government bonds, the licensee shall be permitted to clip and take all interest bearing coupons from such bonds at such time as the same become due.
7. The faithful observance of all provisions and conditions of this ordinance and amendments thereof.

#### 8.0408 License - Application Fitness

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

#### 8.0409 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.
12. Location previously licensed.

#### 8.0410 License - Granting

After the governing body 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 governing body or they may reject the application.

#### 8.0411 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.

#### 8.0412 License - Posting of

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

#### 8.0413 License - Transfer of

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



8.0414 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.

8.0415 Hours and Time of Sale - Penalty - Customers also penalized

Dispensing or consuming of alcoholic beverages on a licensed premises after one o'clock a.m. on Sundays, before eight o'clock a.m. on Mondays or between the hours of one o'clock a.m. and eight o'clock a.m. on all other days of the week or who so dispenses or permits or consumes after one o'clock a.m. on Thanksgiving Day, on Christmas Day, or after six o'clock p.m. on Christmas Eve is guilty of an offense. This means that a customer may also be penalized and cited for a violation. Anyone licensed by the City governing body to sell alcoholic beverages may apply to the City governing body for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to one o'clock a.m. on Mondays. The authority for issuing the permit rests solely with the City governing body. The fee for this permit shall be set by resolution of the City governing body. (Source: North Dakota Century Code Section 5-02-05, 5-02-05.1) Any licensee wishing to dispense or permit the consumption of alcoholic beverages between the hours of twelve noon on Sunday and one o'clock a.m. on Monday may apply for a Sunday alcoholic beverage permit from the City governing body. The fee for the annual Sunday permit is \$100.00 dollars; The licensee is allowed to sell alcoholic beverages on Sundays. It shall be unlawful for any person other than employee to remain in establishment after 1:00 a.m. (Source: North Dakota Century Code Section 5-02-03,05.1)

8.0416 Licensee's Responsibility

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

8.0417 Sunday Alcoholic Beverage Permit - Penalty

Anyone licensed by the City governing body to sell alcoholic beverages may apply to the City governing body for a permit to sell alcoholic beverages under that license during the hours from twelve noon on Sundays to one a.m. on Mondays. The authority for issuing the permit rests solely with the City governing body. The fee for this permit shall be \$25.00 per day. Anyone who dispenses, sells or permits the consumption of alcoholic beverages in violation of this ordinance, or who furnishes false or misleading information in applying for a permit is guilty of an offense which is punishable by a fine of up to \$500.00. (Source: North Dakota Century Code Section 5-02-05.1)

8.0418 Special Permits Authorized:

The City Council of Harvey may by special permit authorize an on sale, off sale or on and off sale alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events designated by the

permit. The fee for a special permit will be \$25.00. This permit is not valid for a period greater than three consecutive days. The City Council of Harvey has the right to regulate and restrict the operation of a special permit. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or conditions of a special permit is guilty of a Class B misdemeanor.

#### 8.0419 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 governing body or license issued by the State of North Dakota.

#### 8.0420 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.

#### 8.0421 Sales Prohibited - Persons

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

#### 8.0422 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, or if a minor is serving food to a customer, or at a public function where security is provided. (Source: North Dakota Century Code Section 5-02-06)

#### 8.0423 Age Identification

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

#### 8.0424 Street Sales Prohibited

The sale or consumption of alcoholic beverages upon or across any street, alley or public way is prohibited, unless authorized by special permit.

8.0425 Premises. Equipment of

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

8.0426 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.

8.0427 Purchase from Licensed Wholesaler

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

8.0428 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.

8.0429 Deliveries - Off Licensed Premises

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

3. It shall be unlawful for any person, firm, or corp to order or deliver through electronic means, provided however, that this section shall not apply to licensed wholesaler dealer or to a licensed retail dealer.

8.0430 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 governing body by personal representative of the decedent, the governing body 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 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 governing body, be either revoked or suspended for such period of time as deemed appropriate, upon the following grounds:
  - a. When the licensee has been convicted of violating any of the provisions of this article.
  - b. When the business of the licensee at the location licensed shall be conducted in violation of health or sanitary regulations or other ordinances of the City.
  - c. When the licensee, if an individual, or one of the partners, if the licensee be a partnership, or one of the officers or the manager if the licensee be a corporation, be convicted in the municipal court of

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

3. Such causes as are hereinbefore detailed shall not be deemed to be exclusive and such license may also be cancelled and revoked or suspended at any time by the governing body for any cause deemed by said governing body to be sufficient cause and justified by reason of public health or public morals. Such termination shall be subject only to review by the courts of the State of North Dakota.
4. When any license is terminated or revoked for cause, or the licensee voluntarily ceases his business, no portion of the license fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

#### 8.0431 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 8.0628 of this article.

### ARTICLE 5 - Shows. Carnivals and Circuses

#### 8.0501 Permit 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 permit from the City.

#### 8.0502 Fees for Permit

The fees to secure a permit 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 permit shall deposit with the city auditor cash bond in the amount of \$500.00 guaranteeing that the premises upon which such carnival or circus is located shall be cleaned after the showing of such carnival or circus to the satisfaction of the city engineer and upon certification of the city engineer to the city auditor or if the City has no city engineer upon determination of the city auditor that the same has been done said cash deposit shall be returned to the permit holder. Provided, further, that in addition to such fees, an

additional fee in an amount of \$250.00, shall be paid at the time of obtaining permit to provide for fire and police protection and additional policing in connection with the showing of such carnival or circus.

#### ARTICLE 6 - Slaughterhouse Permits

##### 8.0601 Definitions

"Slaughterhouse" shall mean a building where animals are butchered to provide meat and meat products for the market of human consumption.

##### 8.0602 Slaughterhouse, Where Authorized, Exceptions

Slaughtering of animals for the preparation of dressed meat and meat products for human consumption within the City shall be done only in slaughterhouses duly licensed in the manner hereinafter provided. Slaughtering and preparation for human consumption of poultry and fish shall be excepted from the provisions of this ordinance.

##### 8.0603 Licenses, Application For, Approval by City Health Officer, Term, Conditions

1. Application for license to erect, maintain or operate a slaughterhouse in the City of Harvey shall be, in writing, addressed to the City Council and filed with the City Auditor. Such application shall state the name, age and place of residence of the applicant, his experience in the business of slaughtering animals and preparation of meat and meat products for human consumption, and a description by lot and block number of the location of the proposed slaughterhouse. There shall also be filed with the application a sketch or map showing the plan and type of construction of the interior of the slaughterhouse.
2. Licenses for the erection, maintenance and operation of slaughterhouses within the City of Harvey shall be granted only upon the approval of the application by the City Council at a regular meeting thereof, and by the City Health Officer, who shall give his approval in writing.
3. All Licenses issued pursuant to this ordinance shall be for a term of one year, commencing on July 1<sup>st</sup> of any year and ending on June 30<sup>th</sup> of the following year.
4. The license fee shall be the sum of \$10.00 annually, to be paid to the City at the office of the City Auditor at or prior to the time of issuing the license, and shall be placed to the credit of the General Funds of the City; provided, however, that when a license is issued between the 1<sup>st</sup> day of January and the 30<sup>th</sup> day of June of any year the fee shall be one-half of the annual fees.

##### 8.0604 Slaughterhouses and Operators, Requirements

1. Slaughterhouses erected, maintained and operated, and all licensees engaged in the erection, operation, and maintenance of slaughterhouses in the City of Harvey, shall conform to the requirements, as follows;;

- a. The floors shall be of concrete made of the best quality of materials and workmanship, and the walls shall be of the same material or tile for a height of at least 5 ft. above the level of the floors.
- b. The floors shall slope from the side of the slaughter rooms to a gutter running through the center of the slaughter rooms with such lateral gutters as may be necessary to conduct blood and other liquids flowing from the slaughter of animals into a receptacle and shall be constructed in such a manner and with sufficient slope that the water used in washing the floors and flushing the gutters and sewers shall have free, unobstructed flow through the same.
- c. Slaughterhouses shall be equipped and provided with proper apparatus, appliances and pens necessary for convenience and dispatch in the slaughter and dressing of animals in a proper and sanitary style and manner for food, and with an adequate supply of clean, fresh water, and devices and appliances reasonably necessary and proper to maintain and operate such slaughterhouses, and every part and room thereof, in a thoroughly clean and sanitary condition.
- d. Slaughterhouses and surrounding premises shall be kept, maintained and operated in a clean, sanitary and wholesome manner, free of unsanitary conditions, noxious or unwholesome stenches or odors that may be offensive to the public or harmful to public health, without disturbing or annoying owner of other property in the City or destroying the reasonable and comfortable use of other property, or depreciating or destroying the value thereof, and without annoying other persons in the pursuit of their employment.
- e. All animals slaughtered shall be in good health, and free from any disease which renders dressed meat unfit for human consumption.
- f. No stockyards or pens shall be kept or maintained for the retention of animals upon the premises of the slaughterhouse.
- g. All Slaughterhouses and premises shall be open to inspection by the City Health Officer, his authorized agent or representative, or the City Council, its agents or representatives, daily at any opportune time, or times, during the daytime on any business day, for cleanliness, unsanitary or offensive conditions or unwholesome or nauseous odors.
- h. All animals brought upon the premises shall be slaughtered promptly. No animal, or animals, shall be retained on the premises overnight or for a time longer than reasonably necessary for prompt slaughtering.

- i. All refuse, waste materials, offal, heads, hooves, organs of animals and other contents thereof, shall be removed from the premises daily.

8.0605 Revocation of Licenses

Licenses issued pursuant to this ordinance shall be subject to revocation by appropriate action by the City Council whenever it becomes apparent that a slaughterhouse is being operated and maintained contrary to the provisions of this ordinance.

8.0606 Inspection

All premises licensed for the erection, maintenance, and operation of slaughterhouses shall be inspected by the City Health Officer, his duly authorized agents or representatives, and may be inspected by the City Council, its authorized agents or representatives, at such time, or times, as provided in this ordinance.

8.0607 Liability for Violations

It shall be no defense to a prosecution for violation of any provisions of this ordinance upon licensed premises, that the person committing the violation was an employee of another, hired to do the act which constitutes the offense. All persons procuring, permitting, or performing the act which constitutes the offense shall, in like manner, be subject to the penalty prescribed herein.

8.0608 Location

Slaughterhouses in the City of Harvey shall be located in such districts or areas approved by the Board of Adjustments for the City of Harvey, created and established under the Ordinances of the City of Harvey, and subject to the provisions of the Ordinances of the City of Harvey.

8.0609 Penalty

Any person, firm, company or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not less than \$50.00 nor more than \$500.00, or by imprisonment in the City jail for not more than 30 days, or both such fine and imprisonment.

8.0610 Police Power

This ordinance is declared to be an exercise of the police powers of the City of Harvey directly affecting and designed to promote the peace, well-being, good health and safety of the people, and shall apply to territory within the corporate limits of the City of Harvey, and such outlying territories over which the City has jurisdiction under State law.

ARTICLE 7 - Validity

8.0701 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 8 - Penalty

##### 8.0801 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.