



Alcohol Ordinance Review and Rewrite Committee Meeting

Tuesday, November 12, 2024, at 10:00 AM

City Council Chambers, City Hall (10 3rd Ave SW)

Any person needing special accommodation for the meeting is requested to notify the City Clerk's office at 857-4752.

1. ROLL CALL

2. APPROVAL OF MINUTES

2.1. APPROVAL OF MINUTES - SEPTEMBER 9, 2024

It is recommended the committee approve the minutes of the September 9, 2024 Alcohol Ordinance Review and Rewrite Committee.

3. OLD BUSINESS

3.1. DISCUSSION ON LICENSE CAP REMOVAL, LICENSE TYPES, AND FEE STRUCTURES

4. NEW BUSINESS

4.1. CHAPTER FIVE ORDINANCE ON ALCOHOLIC BEVERAGES - STAFF RECOMMENDATIONS

5. UPCOMING INFORMATION

6. ADJOURNMENT

September 9, 2024 Alcohol Ordinance Review and Rewrite Committee

Alcohol Ordinance Review and Rewrite Committee – September 9, 2024 AT 2:00 P.M.

Members Present:

Kevin Black, Jon Hanson, Chairman Paul Pitner, Brett Tinnes

Members Absent:

Mayor Tom Ross

Also Present:

Mikayla McWilliams (City Clerk), Harold Stewart (City Manager), Chief John Klug (Police Chief), Stefanie Stalheim (City Attorney), and Brian Billingsley (Community & Economic Development Director)

The meeting was called to order by Chairman Paul Pitner at 2:00 pm.

APPROVAL OF MINUTES

Jon Hanson moved the committee approve the minutes of the June 10, 2024 Alcohol Ordinance Review and Rewrite Committee meeting.

Motion seconded by Brett Tinnes and carried the following vote: ayes: Black, Hanson, Pitner, Tinnes; nays: none.

NEW BUSINESS

3.1 DISCUSSION ON LICENSE CAP REMOVAL

City Attorney, Stefanie Stalheim, briefly summarized the memo from Katie Schmidt, attorney at Ohnstad Twichell. Katie stated this:

“Although courts have yet to consider the removal of a limitation on the number of liquor licenses, they have considered the removal of similar caps, and based on those cases, it is likely the City may legally remove the limitation.”

Katie’s memo references cases where the courts have considered the removal of similar caps. Alderman Pitner discussed some of the previous thoughts the committee has had on preserving the rights to the license holders to include:

- Initial license fee \$125,000 and overtime lowering the amount down to the decided final amount.
- Grandfathered licenses get a one-time transfer.
- Right of first notice – the City of Minot would provide notice to all license holders before the sale of a new license. This would give the chance for a private sale/transfer to happen with the new license holder and grandfathered license.
- Renewal fees/application fees – waived for a period of time.
- Determination of the value on the license.

3.2 PUBLIC INPUT

- Nikki Meyer, attorney from Olson & Burns, mentioned she represents Marketplace Liquors. She has concerns after her review of the memo and does not agree with it because of the property interest. She mentioned removal of the cap could lead to potential litigation.
- Terry Davidson discussed the value of the licenses if more are sold.

- Jon Hanson questioned the memo on page 2, where it talks about the quota system. He does not believe the license holder has a hold on the market.
- Diane Jensen asked the committee about the information on the last 4 bid winners and the initial fees they paid.
- Tony Mueller talked about some of the background on how the committee began from the discussion of economic development, after the 2021 census auction there was discussion about forming a committee, and at a council retreat the discussion continued. He stated the license holders are not scared of competition, because the pie is the pie.
- Aaron Vibeto asked if the memo addresses the minimum bid amount for the four licenses last sold. He also questioned the idea of an initial fee and the supper club vs liquor license.
- Jon Schmidt does not support the cap to be removed. He believes it was put in place for a reason/for infrastructure.
- Terry Davidson inquired about where the idea to remove the cap came from. The committee responded about how it is a discussion at this level and a possible recommended change to the ordinance in the form of a recommendation to City Council. He then asked to have an explanation of the purpose to remove the cap. The committee responded with the ideas of pro-growth and how it invites new business and it leads to a free market where government should not regulate what business can open in the city.
- Nikki Meyer, attorney from Olson & Burns, asked if the author of the memo could do a follow up on the bid process and minimum amount set for the bid responses.

3.3 COMMITTEE DIRECTION/RECOMMENDATIONS

Kevin Black mentioned how he would like to see a pro-growth environment.

Kevin Black moved the committee create a recommendation to City Council to include:

- Removal of the Retail Liquor, Beer and Wine License cap.
- Honor the current license holders by:
 - Set a minimum amount initial fee around \$100,000-\$125,000.
 - Include first right of refusal language for all license holders.
 - A one-time transfer option for all grandfathered licenses.
- Newly purchased licenses would be non-transferrable.
- On sale vs off sale license option.
- ~~Decreasing the initial fee over the years until the initial fee is within the market range.~~

The motion was seconded by Brett Tinnes and the committee opened the floor for discussion.

Mayor Ross joined the meeting at 2:47 pm.

Jon Hanson was not in favor of that idea until all grandfathered licenses were sold. Kevin Black struck the idea out of the motion and Brett Tinnes agreed as the second. Brett Tinnes believes the committee also needs to look at the other license structures. The committee/staff will need to look into the portion of the recommendation which includes the one-time transfer to discuss possible issues which may arise.

The committee called to roll on the motion on the table from Kevin Black and seconded by Brett Tinnes. It carried the following vote: ayes: Black, Pitner, Ross, Tinnes; nays: Hanson.

NEXT SCHEDULED MEETING

The committee decided the next meeting would be October 14th, 2024 at 1:00 pm.

There being no further business, Kevin Black moved the committee meeting be adjourned. Motion seconded by Jon Hanson and carried unanimously. Meeting adjourned at 3:01 pm.



Date: November 4, 2024
To: Members of the Alcohol Ordinance Ad Hoc Committee
Council Member Pitner, Chair
From: Stefanie Stalheim, City Attorney
Re: Black/Pitner Proposals to retire the cap on Retail Liquor Licenses

Members of the Alcohol Ordinance Ad Hoc Committee ("Committee"),

I am providing you with this memorandum for your anticipated discussion regarding amending [Minot City Ordinance Sec. 5-16\(2\)\(d\)](#) to remove or retain the limitation on the number of retail liquor licenses issued by the City of Minot.

[Minot City Ordinance Sec. 5-16\(2\)\(d\)](#) presently reads:

(2) Retail Liquor.

- a. A retail liquor license shall be for the on-sale and/or off-sale of liquor, beer, and wine.
- b. Fee. The fee for a retail liquor license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. A holder of a retail liquor license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.
- d. Limitation on number of licenses. The total number of retail liquor licenses in force in any one (1) year shall not exceed one (1) for each one thousand five hundred (1,500) persons, or major fraction thereof, of the total population of the city. The city council may issue such additional licenses as it deems warranted by the change in population. Before the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census. After the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census or by the annual official United States Census Bureau population estimate.

Eliminating the retail liquor license cap would consist of striking subsection 2d from the Ordinance. I.e., a proposed ordinance eliminating the cap would look like this:

(2) Retail Liquor.

- a. A retail liquor license shall be for the on-sale and/or off-sale of liquor, beer, and wine.
- b. Fee. The fee for a retail liquor license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.

- c. A holder of a retail liquor license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.
- d. ~~Limitation on number of licenses. The total number of retail liquor licenses in force in any one (1) year shall not exceed one (1) for each one thousand five hundred (1,500) persons, or major fraction thereof, of the total population of the city. The city council may issue such additional licenses as it deems warranted by the change in population. Before the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census. After the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census or by the annual official United States Census Bureau population estimate.~~

Black Proposal

At the September 9th meeting, the Committee passed a motion (Hanson opposed) to consider a recommendation that included the following:

- 1. Remove the Retail Liquor license cap;
- 2. Honor the current license holders by:
 - a. Setting a minimum issuance fee somewhere between \$100,000 - \$125,000;
 - b. Afford current license holders a right of first refusal to sell their license to an interested party; and
 - c. Afford all current license holders will receive a one-time renewal fee waiver credit – this gives them the opportunity to transfer their license one time, for no issuance fee;
- 3. Licenses purchased from the City, or transferred from a current license holder, would be non-transferrable and would surrender to the City upon non-renewal; and
- 4. Flexibility for on sale v. off sale license options.

For ease of reference, this memo refers to this motion as the “Black Proposal”.

City staff was asked to review and consider this proposal, and identify any discussion topics and concerns. In that regard, City staff identifies the following discussion topics for the committee:

- 1. Removing the Retail Liquor license Cap:
 - a. We have a memo on file by outside counsel Katie Schmidt that confirms that the City can remove the cap.
- 2. Issuance Fee:
 - a. The City does not currently have an issuance fee separate from the annual license fee – but we can implement that practice and it is not uncommon in other Cities.
 - b. The current staff recommendation contemplates shifting the annual/issuance fees to a resolution system, rather than explicitly listing the fees in our ordinance. Many other Departments (Airport, Public Works, etc.) will pass an annual resolution establishing their

- fees as a part of the annual budget process, and this is consistent with that practice.
3. Right of First Refusal
 - a. City staff and Council would need to develop a way to track who has exercised their right of first refusal, and if multiple license owners are interested in selling their license – who will be afforded the opportunity to sell.
 4. Renewal Fee Waiver Credit
 - a. City staff would need to develop a way to track who has redeemed their credit.
 5. Nontransferrability
 - a. City staff need to develop a way to track who has a transferrable license.
 6. Flexibility for on-sale/off-sale licenses.
 - a. The Committee should consider whether it wants to continue to have one retail liquor license that allows on/off sale of liquor beer and wine – or does it want to bifurcate or split the on/off sale components and in what ratios.

Pitner Proposal

Committee Chair Pitner reached out to City staff to troubleshoot an alternate path to removing the retail liquor license caps. This memo will refer to this alternate path as the “Pitner Proposal”.

The Pitner Proposal consists of the following:

1. Remove the Retail Liquor License cap;
2. Raise the renewal fee for Retail Liquor licenses to \$5,000;
3. New Retail Liquor license fee (for new licenses issued from the City) will be \$5,000;
4. Issue each of the current license holders a check for \$25,000 paid from the City's Economic Development Fund;
 - a. Prior to receiving the check, the license holder would execute a release of all claims against the City.
 - b. Council would specify a date certain by which the license holders would need to execute their release of all claims – if they do not exercise the release, then the Council could move forward with amending the ordinance to remove the cap, and would not compensate the license holder.
5. Waive renewal fees for current Retail Liquor License holders for twenty (20) years, indexed to any increase in the renewal fee, so if the Council within the 20 year period raises fees, the waiver will increase in value to the license holders;
6. Current Retail Liquor License holders will maintain transferability with a renewal fee waiver credit.

Commented [SS1]: Initial email had Economic Dev. Funds – but those are allocated in the 2025 budget ordinance, so earliest Economic Development funds could be considered is 2026 without requiring the 2025 budget ordinance to be amended.

<u>License value Scenerios</u>	<u>Average Value</u>
Scenario 1: Last 5 license sales. (4 from city & X-golf)	\$667,003/5= \$133,400
Scenario 2: Last 5 license sales (excluding target)	\$457,003/4 = \$114,250
Scenario 3: Last 5 license sales (including city recieving EPIC's license at \$0 in July	\$667,003/6 = \$111,167
Scenario 4 : Last 5 license sales (assuming Epic sales license at market value in scenerio 2)	\$781,253/6= \$130,208

Sec. 5-16. Classes of licenses; license fees; license restrictions; limitation on number of licenses.

(1) *Retail beer.*

- a. A retail beer license shall be for the on-sale and/or off-sale of beer.
- b. Fee. The fee for a retail beer license shall be six hundred twenty-five dollars (\$625.00) per year.
- c. A holder of a retail beer license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.

(2) *Retail liquor.*

- a. A retail liquor license shall be for the on-sale and/or off-sale of liquor, beer, and wine.
- b. Fee. The fee for a retail liquor license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. A holder of a retail liquor license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.
- d. Limitation on number of licenses. The total number of retail liquor licenses in force in any one (1) year shall not exceed one (1) for each one thousand five hundred (1,500) persons, or major fraction thereof, of the total population of the city. The city council may issue such additional licenses as it deems warranted by the change in population. Before the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census. After the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census or by the annual official United States Census Bureau population estimate.

(3) *Retail beer and wine.*

- a. A retail beer and wine license shall be for the on-sale and/or off-sale of beer and/or wine.
- b. Fee. The fee for a retail beer and wine license shall be nine hundred fifty dollars (\$950.00).

(4) *Specialty restaurant wine sale.*

- a. A specialty restaurant wine sale license shall be for the sale of wine to be consumed on the licensed premises in conjunction with the sale of restaurant food.
- b. Fee. The fee for a specialty restaurant wine sale license shall be three hundred twenty-five dollars (\$325.00) per year.
- c. Restrictions.
 - 1. A specialty restaurant wine sale licensee is not permitted to sell wine for removal from the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C.
 - 2. A specialty restaurant wine sale licensee shall not serve or allow to be consumed any other alcoholic beverage on the licensed premises except beer as authorized under subsection (5)c.1.

(5) *Specialty restaurant beer sale.*

- a. A specialty restaurant beer sale license shall be for the sale of beer to be consumed on the licensed premises in conjunction with the sale of restaurant food.

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- b. Fee. The fee for a specialty restaurant beer sale license shall be six hundred twenty-five dollars (\$625.00) per year.
 - c. Restrictions.
 - 1. A specialty restaurant beer sale licensee is permitted to sell wine only if a separate specialty restaurant wine sale license is obtained for an additional three hundred twenty-five dollars (\$325.00) per year.

(6) *Supper club.*

- a. A supper club license shall be for the on-sale of liquor, beer, and wine at an establishment defined as a supper club under section 5-1(17) of this Code.
- b. Fee. The fee for a supper club license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Restrictions.
 - 1. A supper club licensee shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 - 2. A supper club licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40(2) by way of a temporary permit;
 - 3. A supper club licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the supper club;
 - 4. A supper club licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away; and
 - 5. A supper club licensee shall discontinue the sale and consumption of alcoholic beverages on the licensed premises within one (1) hour of the time the full kitchen is not in operation. During all other hours of the supper club, the full kitchen shall remain in operation for continuous food service.
- d. Verification of compliance requirement.
 - 1. To verify that the licensee meets the requirement of section 5-16(6)c.1., a supper club licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of section 5-16(6)c.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
 - 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 - 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
- e. Limitation on number of licenses. There shall be no restriction on the number of supper club licenses.

(7) *Winery.*

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- a. A winery license shall be for the on-sale and/or off-sale of wine produced by the winery on the licensed premises, in retail lots, and not for resale, in total quantities not to exceed twenty-five thousand (25,000) gallons in a calendar year. The sale of wine must occur on the licensed premises.
 - b. Fee. The fee for a winery license shall be three hundred twenty-five dollars (\$325.00).
 - c. Restrictions.
 - 1. A winery licensee must hold a license from the state tax commissioner allowing for the production of wine on the licensed premises.
 - 2. A winery licensee may offer complimentary samples of wine produced on the licensed premises provided that the size of each sample does not exceed two (2) fluid ounces per customer.
 - 3. A winery licensee may obtain and utilize special event permits issued by the state tax commissioner.

(8) *Hotel.*

- a. A hotel license shall be for the on-sale of liquor in a hotel in the city containing one hundred (100) or more rooms. A hotel license does not permit off-sale of alcoholic beverages, except to registered guests thereof.
 - 1. The one hundred (100) rooms requirement may be attained when two (2) or more separate buildings, each constituting a hotel, are located on one (1) parcel of real property described in one (1) legal description, or on separate parcels of real property which are immediately adjacent and contiguous to each other and where said parcels are owned by the same individual or organizational licensee pursuant to section 5-18, and the total number of rooms in the separate buildings does, in fact, accumulatively meet or exceed the minimum one-hundred-room requirement for issuance of a license under this section; if a license is attained under either of the latter exceptions, the license shall authorize the carrying on of activity pursuant to its authority only with regard to licensed premises at one (1) particular location in one (1) particular building.
- b. Fee. The fee for a hotel license shall be two thousand five hundred dollars (\$2,500.00) per year.
- c. Restrictions.
 - 1. A hotel licensee is not permitted to sell beer and/or wine without obtaining a separate license for six hundred twenty-five dollars (\$625.00).

(9) *Motel.*

- a. A motel license shall be for the on-sale of liquor in a motel in the city containing no less than fifty (50) units, and containing an operating restaurant as an integral part thereof which is larger in area than any part (or those parts cumulatively, if there is more than one (1) part) of the motel used solely for the consumption of alcoholic beverages, and which restaurant operates at least as many hours per day as does the alcoholic beverage service of the motel. A motel license does not permit off-sale of alcoholic beverages, except to registered guests thereof.
- b. Fee. The fee for a motel license shall be two thousand five hundred dollars (\$2,500.00) per year.
- c. Restrictions.
 - 1. A motel licensee is not permitted to sell beer and/or wine without obtaining a separate license for six hundred twenty-five dollars (\$625.00).

(10) *Fraternal order or club.*

- a. Fraternal order or club retail beer license.

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1. A fraternal order or club retail beer license shall be for the on-sale of beer at any nationally organized and recognized fraternal order or club that was in existence at the time of the adoption of the North Dakota Liquor Control Act.
 2. Fee. The fee for a fraternal order or club retail beer license shall be five hundred dollars (\$500.00) per year.
 3. Restrictions.
 - i. A fraternal order or club licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 4. Limitations on licenses. There is no limitation on the number of fraternal order or club retail beer licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail beer licenses permitted under subsection (1)d.
- b. Fraternal order or club retail liquor license.
1. A fraternal order or club retail liquor license shall be for the on-sale of liquor at a nationally organized and recognized fraternal order or club that was in existence at the time of the adoption of the North Dakota Liquor Control Act.
 2. Fee. The fee for a fraternal order or club retail liquor license shall be two thousand dollars (\$2,000.00) per year.
 3. Restrictions.
 - i. A fraternal order or club retail liquor licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 - ii. A fraternal order or club retail liquor licensee shall not sell beer without obtaining a fraternal order or club retail beer license.
 4. Limitations on licenses. There is no limitation on the number of fraternal order or club retail liquor licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail liquor licenses permitted under subsection (2)e.
- (11) *Serviceman's or veteran's organization.*
- a. Serviceman's or veteran's organization retail beer license.
1. A serviceman's or veteran's organization retail beer license shall be for the on-sale of beer at a nationally organized and recognized serviceman's or veteran's organization which is under the control and supervision of a national organization and officers.
 2. Fee. The fee for a serviceman's or veteran's organization retail beer license shall be five hundred dollars (\$500.00) per year.
 3. Restrictions.
 - i. A serviceman's or veteran's organization licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 4. Limitations on licenses. There is no limitation on the number of serviceman's or veteran's organization retail beer licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail beer licenses permitted under subsection (1)d.
- b. Serviceman's or veteran's organization retail liquor license.

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1. A serviceman's or veteran's organization retail liquor license shall be for the on-sale of liquor at a nationally organized and recognized serviceman's or veteran's organization which is under the control and supervision of a national organization and officers.
 2. Fee. The fee for a serviceman's or veteran's organization retail liquor license shall be two thousand dollars (\$2,000.00) per year.
 3. Restrictions.
 - i. A serviceman's or veteran's organization retail liquor licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 - ii. A serviceman's or veteran's organization retail liquor licensee shall not sell beer without obtaining a serviceman's or veteran's organization retail beer license.
 4. Limitations on licenses. There is no limitation on the number of serviceman's or veteran's organization retail liquor licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail liquor licenses permitted under subsection (2)e.

(12) *MAYSA.*

- a. The MAYSA license is a restricted license to any person or corporation authorized by the Minot Park District board of commissioners for the sale of beer and/or wine at the MAYSA Arena.
- b. Fee. The fee for the MAYSA license is nine hundred forty-seven dollars and fifty cents (\$947.50) per year.
- c. Restrictions.
 1. The MAYSA license is not transferrable, and, in the event the operator shall cease to do business, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent operator of the MAYSA Arena.
 2. The sale and consumption of beer and/or wine shall be limited to a room at the MAYSA Arena designated by the Minot Park District board of commissioners and MAYSA Arena management.
 3. The Minot Park District board of commissioners, by special permission, may allow the sale and consumption of beer and/or wine in the confines of the facility.
 4. No beer and/or wine products shall be advertised on the licensed premises by means of an exterior display or sign or by means of an illuminated display sign.
 5. No off-sale of alcoholic beverages is permitted.

(13) *Airport terminal restaurant.*

- a. The airport terminal restaurant license is for the on-sale of liquor, beer, and wine for the operator of any restaurant located in the terminal building of the Minot International Airport.
- b. Fee. The fee for the airport terminal restaurant license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of the airport terminal restaurant license shall be allowed to serve alcoholic beverages only in the area identified as the restaurant within the Minot International Airport.
- d. Restrictions.
 1. An airport terminal restaurant licensee shall operate a restaurant on the licensee's premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.

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2. The airport terminal restaurant license is not transferrable and, in the event the operator of the restaurant shall cease to do business at the Minot International Airport, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent restaurant operator who may lease the restaurant located in the terminal building of the Minot International Airport.
- e. Verification of compliance requirement.
 1. To verify that the licensee meets the requirement of subsection (13)d.1., an airport terminal restaurant licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (13)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.

(14) *Souris Valley Golf Course.*

- a. The Souris Valley Golf Course license is a restricted license to any person or corporation authorized by the Minot Park District board of commissioners for the sale of beer and/or wine at the Souris Valley Golf Course.
- b. Fee. The fee for the Souris Valley Golf Course license is nine hundred forty-seven dollars and fifty cents (\$947.50) per year.
- c. Restrictions.
 1. The Souris Valley Golf Course license is not transferrable, and, in the event the operator shall cease to do business, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent operator of the Souris Valley Golf Course.
 2. The sale and consumption of beer and/or wine shall be limited to the main floor and porch of the structure on Souris Valley Golf Course generally known as the "Men's and Women's Clubhouse," the "Pro Shop," and/or the "19th Hole."
 3. The Minot Park District board of commissioners, by special permission, may allow the sale and consumption of beer and/or wine elsewhere on the golf course under such terms and conditions as they establish in the grant of permission.
 4. No beer and/or wine products shall be advertised on the licensed premises by means of an exterior display or sign or by means of an illuminated display sign.
 5. No off-sale of alcoholic beverages is permitted.

(15) *North Dakota National Guard.*

- a. The North Dakota National Guard license is a special license for the sale and consumption of alcoholic beverages for only five (5) hours per month, with the hours to be specifically determined in advance by the local commander of the National Guard, at the armory ("licensed premises"), which is permanently leased to the North Dakota National Guard.

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- b. Fee. The fee for the North Dakota National Guard license is twenty-five dollars (\$25.00) per year.
 - c. Restrictions.
 - 1. Only members of the North Dakota National Guard, members of their immediate family, and guests invited by members of the North Dakota National Guard shall be permitted to purchase and consume alcoholic beverages upon the licensed premises.
 - 2. No alcoholic beverages may be sold off-base.
 - 3. The licensee shall observe all restrictions binding upon other licensees such as, for example, the restrictions with respect to closing hours, the delivery of alcoholic beverages to persons under twenty-one (21) years of age and the entry of persons under twenty-one (21) years of age upon licensed premises.

(16) *Private golf course.*

- a. The private golf course license shall be for the on-sale of liquor, beer, and wine by an operator of the food and beverage concession at a private golf course.
- b. Fee. The fee for a private golf course license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of a private golf course license shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee's licensed premises. This shall not include the parking lot or the golf course itself, except as permitted in subsection (16)c.1.
 - 1. The private golf course licensed premises shall extend to allow service of alcoholic beverages on the golf course itself from one (1) location or one (1) mobile cart for a nine-hole golf course or from two (2) locations or two (2) mobile carts for an eighteen-hole golf course. No additional license is required for the sale of alcoholic beverages from a location or cart permitted under this provision.
- d. Restrictions.
 - 1. A private golf course licensee shall operate a restaurant on the licensee's licensed premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 - 2. The private golf course license is not transferrable and may be held only by the operator of the private golf course concession and shall terminate with the termination of the contract or lease of the concession;
 - 3. A private golf course licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40(2) by way of a temporary permit;
 - 4. A private golf course licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the private golf course, other than the specific locations or carts on the golf course pursuant to subsection (16)c.1.;
 - 5. A private golf course licensee shall not sell the same alcoholic beverage or unit or measure of alcoholic beverage at differing prices during the course of any one (1) day; and
 - 6. A private golf course licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away.

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- e. Verification of compliance requirement.
 - 1. To verify that the licensee meets the requirement of subsection (16)d.1., a private golf course licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (16)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent 12-month period prior to renewal.
 - 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 - 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
 - f. Limitation on number of licenses. There shall be no restriction on the number of private golf course licenses.

(17) *Minot State University (MSU).*

- a. The MSU license shall be for the on-sale of liquor, beer, and wine by the person or entity holding a concessions contract at MSU.
- b. Fee. The fee for the MSU license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of the MSU license shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee's licensed premises. Those areas shall be limited to Herb Parker Stadium and the MSU Dome. One (1) license shall cover both locations described in the previous sentence.
- d. Restrictions.
 - 1. The MSU license is not transferrable and may be held only by the operator of the MSU concession and shall terminate with the termination of the contract or lease of the concession;
 - 2. An MSU licensee shall limit the sale and consumption of alcoholic beverages on the licensed premises to events authorized by MSU's president;
 - 3. An MSU licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises;
 - 4. An MSU licensee shall not sell alcoholic beverages after the completion of any event being held at either the Herb Parker Stadium or MSU Dome;
 - 5. An MSU licensee shall ensure that alcoholic beverages are sold and dispensed by a person legally employed by the licensee or an authorized agent of the licensee; and
 - 6. An MSU licensee shall provide, upon request from the city council, special measures which have been or will be implemented, generally or for a particular event, to control or restrict the consumption of alcoholic beverages.
- e. Limitation on number of licenses. The city council may issue one (1) MSU license.

(18) *Movie theater.*

- a. The movie theater license shall be for the on-sale of liquor, beer, and wine by the licensee at a movie theater.

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- b. Fee. The fee for a movie theater license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
 - c. Premises. A recipient of a movie theater license shall be allowed to serve alcoholic beverages in areas which are specifically identified as the licensee's licensed premises and as permitted by the State of North Dakota retail alcoholic beverage license. The licensed premises for a movie theater license shall include a designated alcohol service area.
 - d. Restrictions.
 - 1. A movie theater licensee shall operate a restaurant on the licensee's licensed premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed on the licensed premises;
 - 2. A movie theater licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40 by way of a temporary permit;
 - 3. A movie theater licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the movie theater;
 - 4. A movie theater licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away;
 - 5. The purpose of a movie theater license is to allow for the sale of alcoholic beverages as an adjunct to the operation of the movie theater and not that of operating a full-time liquor establishment. The purchase of a movie theater admission ticket is required for the purchase of an alcoholic beverage;
 - 6. A movie theater licensee shall not serve or deliver more than one (1) alcoholic beverage to a customer at one (1) time; and
 - 7. A movie theater licensee shall only sell or allow consumption of alcoholic beverages on the licensed premises in compliance with section 5-8 and shall be additionally limited as set forth herein:
 - i. A movie theater licensee may not sell alcoholic beverages more than ninety (90) minutes prior to a scheduled movie screening and must immediately cease selling alcoholic beverages at the conclusion of the last movie screening and remove all attendees from the licensed premises.
 - e. Verification of compliance requirement.
 - 1. To verify that the licensee meets the requirement of subsection (18)d.1., a movie theater licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (18)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
 - 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.

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3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
 - f. Limitation on number of licenses. There shall be no restriction on the number of movie theater licenses.

(Ord. No. 5372, § 1; Ord. No. 5525, § 2)



Date: November 4, 2024

To: Members of the Alcohol Ordinance Ad Hoc Committee
Council Member Pitner, Chair

From: Stefanie Stalheim, City Attorney

Re: City Alcohol License Fees as of 11/4/24

Members of the Alcohol Ordinance Ad Hoc Committee ("Committee"),

This memo includes a survey of North Dakota City Alcohol License fees as of November 4, 2024. Each City has a hyperlink to their website displaying their fees.

City of Minot:

Minot City Ordinance Sec. 5-16. Classes of licenses; license fees; license restrictions; limitation on number of licenses.

(1) *Retail beer.*

- a. A retail beer license shall be for the on-sale and/or off-sale of beer.
- b. Fee. The fee for a retail beer license shall be six hundred twenty-five dollars (\$625.00) per year.
- c. A holder of a retail beer license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.

(2) *Retail liquor.*

- a. A retail liquor license shall be for the on-sale and/or off-sale of liquor, beer, and wine.
- b. Fee. The fee for a retail liquor license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. A holder of a retail liquor license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.
- d. Limitation on number of licenses. The total number of retail liquor licenses in force in any one (1) year shall not exceed one (1) for each one thousand five hundred (1,500) persons, or major fraction thereof, of the total population of the city. The city council may issue such additional licenses as it deems warranted by the change in population. Before the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census. After the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census or by the annual official United States Census Bureau population estimate.

(3) *Retail beer and wine.*

- a. A retail beer and wine license shall be for the on-sale and/or off-sale of beer and/or wine.
- b. Fee. The fee for a retail beer and wine license shall be nine hundred fifty dollars (\$950.00).

(4) *Specialty restaurant wine sale.*

- a. A specialty restaurant wine sale license shall be for the sale of wine to be consumed on the licensed premises in conjunction with the sale of restaurant food.
- b. Fee. The fee for a specialty restaurant wine sale license shall be three hundred twenty-five dollars (\$325.00) per year.
- c. Restrictions.
 - 1. A specialty restaurant wine sale licensee is not permitted to sell wine for removal from the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C.
 - 2. A specialty restaurant wine sale licensee shall not serve or allow to be consumed any other alcoholic beverage on the licensed premises except beer as authorized under subsection (5)c.1.

(5) *Specialty restaurant beer sale.*

- a. A specialty restaurant beer sale license shall be for the sale of beer to be consumed on the licensed premises in conjunction with the sale of restaurant food.
- b. Fee. The fee for a specialty restaurant beer sale license shall be six hundred twenty-five dollars (\$625.00) per year.
- c. Restrictions.
 - 1. A specialty restaurant beer sale licensee is permitted to sell wine only if a separate specialty restaurant wine sale license is obtained for an additional three hundred twenty-five dollars (\$325.00) per year.

(6) *Supper club.*

- a. A supper club license shall be for the on-sale of liquor, beer, and wine at an establishment defined as a supper club under section 5-1(17) of this Code.
- b. Fee. The fee for a supper club license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Restrictions.
 - 1. A supper club licensee shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 - 2. A supper club licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40(2) by way of a temporary permit;
 - 3. A supper club licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the supper club;
 - 4. A supper club licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away; and
 - 5. A supper club licensee shall discontinue the sale and consumption of alcoholic beverages on the licensed premises within one (1) hour of the time the full kitchen is not in operation. During all

other hours of the supper club, the full kitchen shall remain in operation for continuous food service.

d. Verification of compliance requirement.

1. To verify that the licensee meets the requirement of section 5-16(6)c.1., a supper club licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of section 5-16(6)c.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.

e. Limitation on number of licenses. There shall be no restriction on the number of supper club licenses.

(7) *Winery.*

- a. A winery license shall be for the on-sale and/or off-sale of wine produced by the winery on the licensed premises, in retail lots, and not for resale, in total quantities not to exceed twenty-five thousand (25,000) gallons in a calendar year. The sale of wine must occur on the licensed premises.
- b. Fee. The fee for a winery license shall be three hundred twenty-five dollars (\$325.00).
- c. Restrictions.
 1. A winery licensee must hold a license from the state tax commissioner allowing for the production of wine on the licensed premises.
 2. A winery licensee may offer complimentary samples of wine produced on the licensed premises provided that the size of each sample does not exceed two (2) fluid ounces per customer.
 3. A winery licensee may obtain and utilize special event permits issued by the state tax commissioner.

(8) *Hotel.*

- a. A hotel license shall be for the on-sale of liquor in a hotel in the city containing one hundred (100) or more rooms. A hotel license does not permit off-sale of alcoholic beverages, except to registered guests thereof.
 1. The one hundred (100) rooms requirement may be attained when two (2) or more separate buildings, each constituting a hotel, are located on one (1) parcel of real property described in one (1) legal description, or on separate parcels of real property which are immediately adjacent and contiguous to each other and where said parcels are owned by the same individual or organizational licensee pursuant to section 5-18, and the total number of rooms in the separate buildings does, in fact, accumulatively meet or exceed the minimum one-hundred-room requirement for issuance of a license under this section; if a license is attained under either of the latter exceptions, the license shall authorize the carrying on of activity pursuant to its authority only with regard to licensed premises at one (1) particular location in one (1) particular building.
- b. Fee. The fee for a hotel license shall be two thousand five hundred dollars (\$2,500.00) per year.
- c. Restrictions.

1. A hotel licensee is not permitted to sell beer and/or wine without obtaining a separate license for six hundred twenty-five dollars (\$625.00).

(9) *Motel.*

- a. A motel license shall be for the on-sale of liquor in a motel in the city containing no less than fifty (50) units, and containing an operating restaurant as an integral part thereof which is larger in area than any part (or those parts cumulatively, if there is more than one (1) part) of the motel used solely for the consumption of alcoholic beverages, and which restaurant operates at least as many hours per day as does the alcoholic beverage service of the motel. A motel license does not permit off-sale of alcoholic beverages, except to registered guests thereof.
- b. Fee. The fee for a motel license shall be two thousand five hundred dollars (\$2,500.00) per year.
- c. Restrictions.
 1. A motel licensee is not permitted to sell beer and/or wine without obtaining a separate license for six hundred twenty-five dollars (\$625.00).

(10) *Fraternal order or club.*

- a. Fraternal order or club retail beer license.
 1. A fraternal order or club retail beer license shall be for the on-sale of beer at any nationally organized and recognized fraternal order or club that was in existence at the time of the adoption of the North Dakota Liquor Control Act.
 2. Fee. The fee for a fraternal order or club retail beer license shall be five hundred dollars (\$500.00) per year.
 3. Restrictions.
 - i. A fraternal order or club licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 4. Limitations on licenses. There is no limitation on the number of fraternal order or club retail beer licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail beer licenses permitted under subsection (1)d.
- b. Fraternal order or club retail liquor license.
 1. A fraternal order or club retail liquor license shall be for the on-sale of liquor at a nationally organized and recognized fraternal order or club that was in existence at the time of the adoption of the North Dakota Liquor Control Act.
 2. Fee. The fee for a fraternal order or club retail liquor license shall be two thousand dollars (\$2,000.00) per year.
 3. Restrictions.
 - i. A fraternal order or club retail liquor licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 - ii. A fraternal order or club retail liquor licensee shall not sell beer without obtaining a fraternal order or club retail beer license.
 4. Limitations on licenses. There is no limitation on the number of fraternal order or club retail liquor licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail liquor licenses permitted under subsection (2)e.

(11) *Serviceman's or veteran's organization.*

- a. Serviceman's or veteran's organization retail beer license.

1. A serviceman's or veteran's organization retail beer license shall be for the on-sale of beer at a nationally organized and recognized serviceman's or veteran's organization which is under the control and supervision of a national organization and officers.
 2. Fee. The fee for a serviceman's or veteran's organization retail beer license shall be five hundred dollars (\$500.00) per year.
 3. Restrictions.
 - i. A serviceman's or veteran's organization licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 4. Limitations on licenses. There is no limitation on the number of serviceman's or veteran's organization retail beer licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail beer licenses permitted under subsection (1)d.
- b. Serviceman's or veteran's organization retail liquor license.
1. A serviceman's or veteran's organization retail liquor license shall be for the on-sale of liquor at a nationally organized and recognized serviceman's or veteran's organization which is under the control and supervision of a national organization and officers.
 2. Fee. The fee for a serviceman's or veteran's organization retail liquor license shall be two thousand dollars (\$2,000.00) per year.
 3. Restrictions.
 - i. A serviceman's or veteran's organization retail liquor licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 - ii. A serviceman's or veteran's organization retail liquor licensee shall not sell beer without obtaining a serviceman's or veteran's organization retail beer license.
 4. Limitations on licenses. There is no limitation on the number of serviceman's or veteran's organization retail liquor licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail liquor licenses permitted under subsection (2)e.

(12) *MAYSA.*

- a. The MAYSA license is a restricted license to any person or corporation authorized by the Minot Park District board of commissioners for the sale of beer and/or wine at the MAYSA Arena.
- b. Fee. The fee for the MAYSA license is nine hundred forty-seven dollars and fifty cents (\$947.50) per year.
- c. Restrictions.
 1. The MAYSA license is not transferrable, and, in the event the operator shall cease to do business, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent operator of the MAYSA Arena.
 2. The sale and consumption of beer and/or wine shall be limited to a room at the MAYSA Arena designated by the Minot Park District board of commissioners and MAYSA Arena management.
 3. The Minot Park District board of commissioners, by special permission, may allow the sale and consumption of beer and/or wine in the confines of the facility.
 4. No beer and/or wine products shall be advertised on the licensed premises by means of an exterior display or sign or by means of an illuminated display sign.
 5. No off-sale of alcoholic beverages is permitted.

(13) *Airport terminal restaurant.*

- a. The airport terminal restaurant license is for the on-sale of liquor, beer, and wine for the operator of any restaurant located in the terminal building of the Minot International Airport.
- b. Fee. The fee for the airport terminal restaurant license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of the airport terminal restaurant license shall be allowed to serve alcoholic beverages only in the area identified as the restaurant within the Minot International Airport.
- d. Restrictions.
 - 1. An airport terminal restaurant licensee shall operate a restaurant on the licensee's premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.
 - 2. The airport terminal restaurant license is not transferrable and, in the event the operator of the restaurant shall cease to do business at the Minot International Airport, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent restaurant operator who may lease the restaurant located in the terminal building of the Minot International Airport.
- e. Verification of compliance requirement.
 - 1. To verify that the licensee meets the requirement of subsection (13)d.1., an airport terminal restaurant licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (13)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
 - 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 - 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.

(14) *Souris Valley Golf Course.*

- a. The Souris Valley Golf Course license is a restricted license to any person or corporation authorized by the Minot Park District board of commissioners for the sale of beer and/or wine at the Souris Valley Golf Course.
- b. Fee. The fee for the Souris Valley Golf Course license is nine hundred forty-seven dollars and fifty cents (\$947.50) per year.
- c. Restrictions.
 - 1. The Souris Valley Golf Course license is not transferrable, and, in the event the operator shall cease to do business, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent operator of the Souris Valley Golf Course.
 - 2. The sale and consumption of beer and/or wine shall be limited to the main floor and porch of the structure on Souris Valley Golf Course generally known as the "Men's and Women's Clubhouse," the "Pro Shop," and/or the "19th Hole."

3. The Minot Park District board of commissioners, by special permission, may allow the sale and consumption of beer and/or wine elsewhere on the golf course under such terms and conditions as they establish in the grant of permission.
4. No beer and/or wine products shall be advertised on the licensed premises by means of an exterior display or sign or by means of an illuminated display sign.
5. No off-sale of alcoholic beverages is permitted.

(15) *North Dakota National Guard.*

- a. The North Dakota National Guard license is a special license for the sale and consumption of alcoholic beverages for only five (5) hours per month, with the hours to be specifically determined in advance by the local commander of the National Guard, at the armory ("licensed premises"), which is permanently leased to the North Dakota National Guard.
- b. Fee. The fee for the North Dakota National Guard license is twenty-five dollars (\$25.00) per year.
- c. Restrictions.
 1. Only members of the North Dakota National Guard, members of their immediate family, and guests invited by members of the North Dakota National Guard shall be permitted to purchase and consume alcoholic beverages upon the licensed premises.
 2. No alcoholic beverages may be sold off-base.
 3. The licensee shall observe all restrictions binding upon other licensees such as, for example, the restrictions with respect to closing hours, the delivery of alcoholic beverages to persons under twenty-one (21) years of age and the entry of persons under twenty-one (21) years of age upon licensed premises.

(16) *Private golf course.*

- a. The private golf course license shall be for the on-sale of liquor, beer, and wine by an operator of the food and beverage concession at a private golf course.
- b. Fee. The fee for a private golf course license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of a private golf course license shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee's licensed premises. This shall not include the parking lot or the golf course itself, except as permitted in subsection (16)c.1.
 1. The private golf course licensed premises shall extend to allow service of alcoholic beverages on the golf course itself from one (1) location or one (1) mobile cart for a nine-hole golf course or from two (2) locations or two (2) mobile carts for an eighteen-hole golf course. No additional license is required for the sale of alcoholic beverages from a location or cart permitted under this provision.
- d. Restrictions.
 1. A private golf course licensee shall operate a restaurant on the licensee's licensed premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 2. The private golf course license is not transferrable and may be held only by the operator of the private golf course concession and shall terminate with the termination of the contract or lease of the concession;
 3. A private golf course licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40(2) by way of a temporary permit;

4. A private golf course licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the private golf course, other than the specific locations or carts on the golf course pursuant to subsection (16)c.1.;
 5. A private golf course licensee shall not sell the same alcoholic beverage or unit or measure of alcoholic beverage at differing prices during the course of any one (1) day; and
 6. A private golf course licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away.
- e. Verification of compliance requirement.
1. To verify that the licensee meets the requirement of subsection (16)d.1., a private golf course licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (16)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent 12-month period prior to renewal.
 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
- f. Limitation on number of licenses. There shall be no restriction on the number of private golf course licenses.

(17) *Minot State University (MSU).*

- a. The MSU license shall be for the on-sale of liquor, beer, and wine by the person or entity holding a concessions contract at MSU.
- b. Fee. The fee for the MSU license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of the MSU license shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee's licensed premises. Those areas shall be limited to Herb Parker Stadium and the MSU Dome. One (1) license shall cover both locations described in the previous sentence.
- d. Restrictions.
 1. The MSU license is not transferrable and may be held only by the operator of the MSU concession and shall terminate with the termination of the contract or lease of the concession;
 2. An MSU licensee shall limit the sale and consumption of alcoholic beverages on the licensed premises to events authorized by MSU's president;
 3. An MSU licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises;
 4. An MSU licensee shall not sell alcoholic beverages after the completion of any event being held at either the Herb Parker Stadium or MSU Dome;
 5. An MSU licensee shall ensure that alcoholic beverages are sold and dispensed by a person legally employed by the licensee or an authorized agent of the licensee; and

6. An MSU licensee shall provide, upon request from the city council, special measures which have been or will be implemented, generally or for a particular event, to control or restrict the consumption of alcoholic beverages.
 - e. Limitation on number of licenses. The city council may issue one (1) MSU license.
- (18) *Movie theater.*
- a. The movie theater license shall be for the on-sale of liquor, beer, and wine by the licensee at a movie theater.
 - b. Fee. The fee for a movie theater license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
 - c. Premises. A recipient of a movie theater license shall be allowed to serve alcoholic beverages in areas which are specifically identified as the licensee's licensed premises and as permitted by the State of North Dakota retail alcoholic beverage license. The licensed premises for a movie theater license shall include a designated alcohol service area.
 - d. Restrictions.
 1. A movie theater licensee shall operate a restaurant on the licensee's licensed premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed on the licensed premises;
 2. A movie theater licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40 by way of a temporary permit;
 3. A movie theater licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the movie theater;
 4. A movie theater licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away;
 5. The purpose of a movie theater license is to allow for the sale of alcoholic beverages as an adjunct to the operation of the movie theater and not that of operating a full-time liquor establishment. The purchase of a movie theater admission ticket is required for the purchase of an alcoholic beverage;
 6. A movie theater licensee shall not serve or deliver more than one (1) alcoholic beverage to a customer at one (1) time; and
 7. A movie theater licensee shall only sell or allow consumption of alcoholic beverages on the licensed premises in compliance with section 5-8 and shall be additionally limited as set forth herein:
 - i. A movie theater licensee may not sell alcoholic beverages more than ninety (90) minutes prior to a scheduled movie screening and must immediately cease selling alcoholic beverages at the conclusion of the last movie screening and remove all attendees from the licensed premises.
 - e. Verification of compliance requirement.
 1. To verify that the licensee meets the requirement of subsection (18)d.1., a movie theater licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (18)d.1. At the option of the licensee, in lieu of a certified

public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.

2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
- f. Limitation on number of licenses. There shall be no restriction on the number of movie theater licenses.

(Ord. No. 5372, § 1; Ord. No. 5525, § 2)

City of Fargo:

Fargo City Ordinance 25-1507. License—Fees.

- A. Initial issuance fee—For a license granted which is not a renewal or a transfer of an existing license, the following fees shall be payable as hereinafter provided:

Class AB—\$150,000

Class ABH—\$30,000

Class ABH-RZ—\$15,000

Class ABH-limited—\$1,800.00

Class A—\$115,000

Class B—\$ 90,000

Class C—\$7,500

Class D—\$1,500.00

Class DD—\$3,000

Class E—\$25 plus \$10 for each day requested. Additional \$25 fee if application is received less than 7 days before the event, and only after a showing of good cause. In no event will a permit be issued less than 48 hours before the scheduled event.

Class F—\$3,000

Class FA—\$100,000

Class FA-RZ—\$50,000

Class FA-GOLF—\$60,000

Class FA-ENTERTAINMENT—\$100,000

Class G—\$1,000

Class H—\$800

Class I—\$10,000

Class I-ENTERTAINMENT—\$10,000

Class J—No fee

Class L—No fee

Class M—\$1,500

Class N—\$3,000

Class O—\$400

Class P—\$1,400

Class W—\$7,500

Class Y—\$3,000

Class Z—\$105,000

Class B-Limited—\$80,000

Class RZ-V—\$5,000

Class DCP-E—\$25 plus \$10 for each day requested.

Class VWB—\$7,500

No fee shall be charged for the initial issuance of a license hereunder to a lodge or club, nor shall any fee be charged for the initial issuance of a license to any liquor establishment licensed by any other political subdivision over which the city of Fargo has subsequently acquired jurisdiction by annexation, provided, however, that such liquor establishment must have been in existence for at least fifteen (15) years prior to such annexation by the city of Fargo. The initial issuance fee charged shall be the difference between the city fee and the fee originally charged by the issuing subdivision.

A non-refundable payment in the sum of 10% of the initial issuance fee shall be paid at the time issuance of the license is approved by the board of city commissioners pursuant to § 25-1508 of this article. The remainder of the initial issuance fee shall be payable upon issuance of the license, but not more than 30 days after date of approval by the board of city commissioners; provided, that the time for payment of the remaining balance of the initial issuance fee may, with the approval of the board of city commissioners, be deferred and paid by periodic payments within 180 days after the date of approval. In the event that the applicant fails to pay the remainder of the initial issuance fee within 30 days, or such other time as may have been approved by the board of city commissioners, the approval shall be deemed to have expired and the 10% payment by the applicant shall be forfeited.

B. Annual fees shall be payable at the beginning of each license year as follows:

Class AB—\$2,400

Class ABH—\$2,000

Class ABH-RZ—\$2,000

Class ABH-limited—\$700.00

Class A—\$1,700, except that the license fee for any lodge or club having a total membership of less than 1,000 shall be \$1,200 per year.

Class B—\$1,400

Class C—\$750

Class D—\$200

Class DD—\$500

Class E—No annual fee shall be charged for a Class E license.

Class F—\$1,500

Class FA—\$1,700

Class FA-RZ—\$1,700

Class FA-GOLF—\$1,700

Class FA-ENTERTAINMENT—\$1,700

Class G—\$400

Class H—\$300

Class I—\$1,000

Class I-ENTERTAINMENT—\$1,000

Class J—\$25

Class L—\$1,000

Class M—\$200

Class N—\$1,500

Class O—\$150

Class P—\$500

Class W—\$750

Class Y—\$500

Class Z—\$1,700

Class B-Limited—\$1,400

Class RZ-V—\$1,700

Class DCP-E—No annual fee shall be charged for a Class DCP-E license.

Class VWB—\$750

- C. The transfer of a license issued pursuant to the provisions of this article shall require a transfer fee equal to the total annual cost of the license being transferred; provided, however, that a transfer fee shall not be imposed for the following-described transfers:
1. When an individual holding a license issued pursuant to the provisions of this article has become deceased, the license may, upon application of the personal representative of the decedent, be transferred to another individual, partnership, firm or corporation.
 2. When any corporation holding a license issued pursuant to the provisions of this article voluntarily dissolves, a license may be issued to any individual shareholder in such corporation who held said stock at the time of the issuance or last renewal of the license and whose application is approved by the holders owning a majority of the outstanding shares of stock in said corporation prior to the time of dissolution; provided, however, that such shareholder shall be subject to all the requirements of this article relating to the application for a license and to the qualifications of a licensee.
 3. When any licensee under the provisions of this article applies for and receives the approval of the commission on the change of location of the licensed premises.
 4. When an individual licensee desires to transfer a license to a corporation in which the licensee is the owner of at least 75% of the outstanding shares of stock in said corporation; provided, however, that such licensee may not permit his stock ownership in the transferee corporation to fall below a majority of the outstanding stock in said corporation without the prior approval of the commission and payment of the required transfer fee. The transferee corporation shall be

subject to all the requirements of this article relating to the application for a license and the qualifications of a licensee.

5. When a licensee is a corporation or partnership which desires to transfer a license to another corporation or partnership having substantially the same partners or stockholders; provided, however, that such transferee corporation or partnership shall be subject to all the requirements of this article relating to the application for a license and the qualifications of a licensee. No Class "E" licensee shall transfer his license under any circumstances.
- D. In addition to the fees set forth in paragraphs A, B and E of this section, each application for a new license (except Class "E" and Class "J"), or a transfer of a license pursuant to § 25-1504 of this article shall, at the time of submission of his application for such issuance or transfer, pay to the city auditor, the sum of \$250 as a minimum non-refundable fee for the investigation which is required by § 25-1505 of this article. Any additional costs incurred by the city in connection with such investigation shall be paid by the applicant prior to the hearing on said application and shall not be refunded in the event that the applicant is not successful.
- E. In addition to the fees and costs set forth in paragraphs A, B, C and D of this section, each licensee who applies for and receives a Class "E" license for a special event shall, upon conclusion of said special event pay to the city auditor, a sum of money sufficient to defray the extra costs incurred by the city in providing police protection for said event. The amount of such extra cost shall be determined by the police chief and an appropriate statement sent to the licensee but in no event shall said extra costs exceed the sum of \$300.
- F. The license fees set forth in subsection B of this section shall be for a period of one year from July 1 through June 30 and shall be payable in advance at the time of the issuance of the license and thereafter, on or before June 10 of each subsequent year.
- G. If an application is made for the issuance of a license at a time other than the beginning of the license year, the license fee shall be prorated on a monthly basis of the unexpired term of the license commencing on the first day of the month in which the application is filed and any subsequent renewal of said license shall be for a full license year.
- H. Class "F", "FA-GOLF", "G", "H", "I", and "N" licenses may be issued as seasonal licenses. Application for such licenses shall be made prior to June 30 each year and the application shall indicate the months in which the license is to be effective. Fees for such licenses shall be prorated to the nearest fractional month of the effective period and payment therefor shall accompany the application.

City of West Fargo:

Link to Fee Schedule: [Liquor-License-Post-Approval-Review-Form-B](#)

West Fargo City Ordinance [10-0105](#). LICENSES - REGULATIONS AS TO CLASSES - FEES.

1. Licenses authorizing the sale of alcoholic beverages within the City are divided into the following classes; the fees for each class are payable at the time of application for the license and the amount for each license will be set by resolution of the City Commission, which resolution shall be on file with the City Administrator:

- (a) Wholesaler's License.
- (b) Retail Bar On and Off Sale Liquor, Wine and Beer License.
- (c) Retail Bar On Sale Liquor, Wine and Beer License. 10-1-5
- (d) Retail Liquor Store Off Sale Liquor, Wine and Beer License.
- (e) Restaurant On and Off Sale Liquor, Wine and Beer License.
- (f) Restaurant On Sale Liquor, Wine and Beer License.

- (g) Retail Club or Lodge On Sale Liquor, Wine and Beer License.
- (h) Retail Convenience/Grocery Store Off Sale Liquor, Wine and Beer License.
- (i) Retail Business On-Sale Wine and Beer License.
- (j) Public Facilities License.

City of Grand Forks:

Link to Fee Schedule: [Alcoholic Beverage License | City of Grand Forks, ND.](#)

Grand Forks City Ordinance 21-0210. Same—Fees.

- (1) *Application fees.* In addition to any other fees required by this chapter, each new application shall be accompanied by a nonrefundable application fee and each renewal application fee shall be accompanied by a nonrefundable application fee. Such fee shall be established by resolution of the Grand Forks City Council.
 - (2) *Issuance fees.*
 - (A) In addition to any other fees required by this chapter, issuance fees shall be paid prior to the issuance of any new license in an amount established by resolution of the Grand Forks City Council.
 - (B) In the event a license holder applies for a new license requiring the payment of a higher issuance fee than previously paid, credit shall be given in an amount equal to that previously paid, provided:
 - 1. The subsequent application occurs within ten (10) years after the payment of the original issuance fee; and
 - 2. The license holder surrenders to the city their present license simultaneously with the receipt of the new license.
 - (C) Issuance fees as provided herein for Class 1, 2, 4, 5, or 9 alcoholic beverage licenses may be paid in four (4) equal installments, the first installment due upon the issuance of the license and the subsequent installments paid upon the first, second, and third annual anniversary date of the issuance of the license. The license holder shall be required to deposit sufficient surety payable to the city during the period of time that such installments are outstanding. No license shall be transferred until such time as the entire issuance fee is paid in full.
 - (3) *Annual fees.* Except as otherwise provided herein, all licenses under this article shall run for an annual period commencing January 1 of each year and terminating on December 31 of each year. Fees shall be established by resolution of the Grand Forks City Council. Failure to pay any annual fee shall result in an automatic cancellation of such license.
- (Ord. No. 3270, § 2, 3-1-93; Ord. No. 3302, § 7, 7-6-93; Ord. No. 3410, § 2, 5-2-94; Ord. No. 3609, § 1, 9-3-96; Ord. No. 3897, § III, 8-13-01; Ord. No. 4093, § III, 10-3-05; Ord. No. 4096, § XXVIII, 10-3-05; Ord. No. 4154, § XXVI, 9-5-06; Ord. No. 4252, § XXVIII, 10-6-08; Ord. No. 4321, § XI, 4-18-11)

City of Bismarck:

Link to Fee Schedule: [Comprehensive City Chart all depts.xlsx](#)

Bismarck City Ordinance [5-01-03](#). License Term and Fee Proration.

1. All licenses issued are for a period of not more than one year and expire on July 31 following the date of issuance. When a license is granted for a period of less than a year any subsequent renewal must be made for the full annual term.
2. When an application is made for a new retail alcoholic beverage license, permitting the retail sales of alcoholic beverages during the license year for the unexpired portion of such year, the fees therefor are computed on a monthly pro-rata basis of the unexpired term of the license period commencing as of the first of the month in which the license is effective. (Ord. 4693, 06-13-95)

Bismarck City Ordinance [5-01-06](#). License Application.

1. Applications for licenses issued pursuant to this chapter must be submitted on an application form provided by the city, under oath, and set forth all information as may be required to determine qualifications. Applications not completed in full as required or not accompanied by the required fee must be rejected.
2. All applications for a new license or to transfer a license to a new location must be accompanied by a non-refundable application fee of \$200.00. All applications for a new license also must be accompanied by the required annual license fee, which must be refunded if the application is not approved.
3. Applications to renew a license for a second or subsequent year and required annual license fee, which shall be refunded if the application is not approved, must be filed with the office of city administration no later than July 1. An application fee is not required for applications for a second or subsequent year.
4. Applications to renew a license filed after July 1 but prior to August 1 may be considered and approved by the Board of City Commissioners upon payment of a late fee of \$50.00 and, if it is necessary to schedule a special meeting to do so, reasonable costs of the special meeting as determined by the board. Title 5 19 Such costs must be pro-rated among the applicants if more than one late application is approved at a special meeting.
5. If an application for a license renewal is not filed and approved prior to August 1, the licensee must cease business after July 31, and may apply for a new license, if available, pursuant to this section.
6. Applications for a new Class D or E license or a license that has been revoked or not renewed must be accompanied by a sealed envelope containing a bid which would be paid to the city in the event the application is approved. The license may be awarded only to the qualified applicant that submits the highest bid.
7. The Board of City Commissioners may issue additional Class D and E licenses based upon the city population as determined by the most recent U. S. Census Bureau census in accordance with the formula established in section 5- 01-04. Upon determination that an additional license(s) is available, and that it should be issued, the city shall place a four inch column display advertisement in the official city newspaper at least 15 days prior to the deadline for receipt of bids. The Board may set a minimum bid or other conditions of the bid which shall be stated in the advertisement.

City of Williston:

Link to Fee Schedule: [Licenseholders for Web 06.18.2024!.pdf](#)

Williston City Ordinance 3-37 Conditions and license fees.

(a) The following special conditions, limitations, restrictions, and license fees shall apply to the various classes of licenses as indicated below. (b) Except for initial issuance fees and transfer fees as established by resolution, the yearly license fee may be prorated, depending upon the date of the license application, as follows: If the license is applied for during: January, February, or March, the full license fee shall be due; April, May or June, 75% of the full license fee shall be due; July, August, or September, 50% of the full license fee shall be due; and October, November, and December, 25% of the full license fee shall be due. . .

City of Dickinson:

Link to Fee Schedule: [2024 Fee Schedule | MuniDocs | Dickinson, ND | Municode Library](#)

Dickinson City Ordinance 4.08.080 Term; fees

All licenses under this chapter shall run for annual periods commencing January 1 of each year and terminating on December 31 of the same year. The license renewal application must be received and fees shall be paid prior to October 1. Failure to pay the license fees when due shall be cause for non-issuance of the license. Annual license fees shall be set by resolution of the Board of City Commissioners, and included in the City Fee Schedule. Each applicant for a new license, or a transfer of a license as described in 4.08.200 and 4.08.210, shall at the time of submission of the application for such issuance or transfer, pay (1) an application fee; and (2) an issuance fee or transfer fee as may be set by the Board of City Commissioners by resolution and incorporated into the City Fee Schedule.

City of Devils Lake:

Link to Fee Schedule: [2024_FeesRates.pdf](#)

Devils Lake City Ordinance 5.24.050 Classes of licenses, fees and limitation of number issued.

- A. The board finds that in order to ensure compliance by all licensees with all applicable federal, state and city laws, ordinances and regulations, and in order to adequately police all licensed establishments and to promote the public welfare, it is necessary and proper to limit the number of licenses issued pursuant to the city's police powers and authority granted by Title 5, NDCC.
- B. Pursuant to the provisions of this chapter, the number of Class IV and V retail licenses for the sale of alcoholic beverages within the city shall be based upon the population of the city itself. Such population figures will hereafter be determined according to the official census last taken. All other license classifications hereunder shall not be limited by number or included in any population-license ration if any application therefore otherwise meets and satisfies the other provisions and requirements for the issuance hereof.
- C. The city commission does further acknowledge that twenty-three retail licenses for the sale of alcoholic beverages are in full force and effect in the city upon the effective date of the ordinance codified in this chapter.

Each license is given a number by the city auditor. With each number the city auditor shall include the class, holder of the license, and business name if different than the holder of the license.

To insure that said licenses remain in full force and effect and otherwise are in compliance herewith upon the enactment of the ordinance codified in this chapter, the city commission does deem it necessary and reasonable to classify all existing licenses in the following manner by each license number:

1. Class I license and Sunday Special Permit;
2. Class I license and Sunday Special Permit;
3. Class I license and Sunday Special Permit;
4. Class I license;
5. Class III license and Sunday Special Permit;
6. Class IV license;
7. Class II license and Sunday Special Permit;
8. Class VI license and Sunday Special Permit;
9. Class VI license and Sunday Special Permit;
10. Class VI license and Sunday Special Permit;
11. Class IV license and Sunday Special Permit;
12. Class IV license and Sunday Special Permit;
13. Class IV license and Sunday Special Permit;
14. Class IV license and Sunday Special Permit;
15. Class IV license and Sunday Special Permit;
16. Class IV license and Sunday Special Permit;
17. Class IV license;
18. Class IV license and Sunday Special Permit;
19. Class IV license and Sunday Special Permit;
20. Class IV license and Sunday Special Permit;
21. Class IV license and Sunday Special Permit;
22. Class VI license and Sunday Special Permit; and
23. Class IV license and Sunday Special Permit.

Each of the foregoing licenses has been designated in accordance with the provisions hereof and assigned the above permanent license which shall identify said license until such time as the license terminates through revocation or cancellation. The transfer of any such license shall not change the number so assigned. In the event, however, that any of the foregoing Class IV or V licenses are subsequently revoked or cancelled through voluntary action of the licensee or involuntarily through the action of the city commission, such license(s) may be reissued to any eligible application without regard to the population-license ratio as otherwise applicable herein.

- D. The city commission shall at its discretion, hereafter issue only one additional Class IV or Class V retail license for the sale of alcoholic beverages, notwithstanding the licenses already issued in such classification, for each one thousand population increase for the city which exceeds the city's present population of seven thousand four hundred forty-two.
- E. Provided further, that in the event any area is annexed into the city pursuant to the provisions of Chapter 40.51.2, NDCC and said area contains licensed retail liquor establishments thereon, the city commission shall be empowered at its discretion and upon proper application by said annexed licensee to issue a retail license

within the designated classification as deemed appropriate to sell alcoholic beverages within the city without limitation to the population-license ration otherwise applicable herein.

- F. Licenses for the retail sale of alcoholic beverages are divided into the following classes for the purpose of determining the number of licenses to be issued and outstanding:
1. Class I License. To any nationally organized fraternal order, club or any nationally organized service or veteran's organization which is under the control and supervision of a national organization of officers. A Class I license shall authorize the license to sell alcoholic beverages on-sale or off-sale.
 2. Class II License. To the operator of a supper club food and beverage establishment. The license may not be transferred and must be held only by the operator who has been awarded the license and be held only for the period of the operator's license and shall terminate with the termination of the food and beverage establishment. A Class II license shall authorize the licensee to sell alcoholic beverages on-sale and off-sale.
 3. Class III License. To a hotel or motel that provides at least fifty rooms for transient guests with continuous service and dining facilities with a seating capacity of at least fifty seats as a part of the hotel or motel operations and a full menu normally provided by a restaurant, and maintained and open seven days a week. The fifty seats for dining facilities are in addition to seating facilities for customers of the liquor facilities. A Class III license authorizes the licensee to sell on-sale and off-sale. However, this restriction does not preclude customary room service to registered guests of the licensee.
 4. Class IV License. To any applicant for the on-sale and off-sale of alcoholic beverages other than applicants in other classifications hereof.
 5. Class V License. To any applicant for the sale at retail for off-sale.
 6. Class VI License. To any applicant for a specialty restaurant license to sell beer and/or wine in conjunction with food sales at retail, subject, however, to the following:
 - a. Gross sales of alcoholic beverages may not be greater than forty percent of total gross sales of food and alcoholic beverages. All Class VI license holders shall file with the application for license renewal a statement certifying gross food sales and liquor sales for the previous calendar year. The board of city commissioners may, in its discretion, require certification of any statement by a certified public accountant, retained by the licensee. All sales of alcoholic beverages by Class VI licensees must be separately receipted to the customer by cash register receipt and clearly identified as sales of beer or wine on all receipts.
 - b. The license is for on-sale only, and off-sale is not permitted. A cessation of business at a licensed location for a period of ninety days or longer shall constitute cause to revoke such license pursuant to Section 5.24.110(A)(2).
 - c. Once a license has been established at a particular location, the license may not be transferred to another location without prior approval of the city commission.
 - d. The licensee may not permit public dances or dancing of any kind on said premises.
 - e. Specialty restaurant licenses shall only be issued to specialty restaurants having a seating capacity of seventy-five or more people.
 - f. Specialty restaurants must be constructed so that minors not accompanied by adults are seated in an area separate from the area where tap beer and/or wine is served.
 - g. Any specialty license issued under this section shall be cancelled if for any reason the licensee ceases to be qualified as the specialty for which the license was issued.
 7. Class VII License. To any organization, corporation or association that functions on less than a daily basis and is operational less than one hundred days in a calendar year. These special occasion clubs primarily cater to members and their guests.

- a. The license is for on-sale only, and off-sale is not permitted.
 - b. Once a license has been established at a certain location, the license may not be transferred to another location without prior approval of the city commission.
 - c. Special occasion clubs must be constructed so that minors will not have access to the area where liquor is served.
 - d. Section 5.24.110(A)(2), requiring suspension or revocation of a license if licensee ceases business at the location for a period of ninety days or more, does not apply to the Class VII license.
 - e. Any license issued under this section shall be cancelled if for any reason the licensee ceases to be qualified as the entity for which the license was issued.
8. Class VIII License. To the owner or licensee of any hotel in the city, containing twenty or more rooms. A license issued pursuant to this paragraph, however, may not be used for the off-sale of alcoholic beverages, except to registered guests thereof.
9. Class IX License. To an applicant for the sale of retail on-sale or off-sale, wine and beer only. A Class IX license will be issued in the sole discretion of the Devils Lake City Commission. The annual license fee for a Class IX license shall be set each year by the city commission, in the fees and rates. A Class IX license is subject to the following conditions:
- a. The sale, dispensing, or consumption of wine and beer is allowed in only the licensed premises of the retail establishment.
 - b. The only alcohol sold, dispensed or consumed is wine and beer.
 - c. On-sale or off-sale of wine and beer on the licensed premises is permitted.
 - d. Gross sale of alcoholic beverages may not be greater than thirty percent of the total gross sales of all other items sold at retail and alcoholic beverages. All Class IX license holders shall file with the application for license renewal a statement certifying gross retail sales and wine and beer sales for the previous calendar year. The board of city commissioners may, in its discretion, require certification of any statement by a certified public accountant, retained by the licensee.
 - e. A partition dividing the licensed premises from the remainder of the retail store shall be installed. This partition shall allow customers and employees of the retail store access between the licensed premises and non-licensed premises, subject to the restrictions of minors in the licensed premises.
 - f. Minors are not allowed in the licensed premises, except as permitted by NDCC §5-02-06.
 - g. A retail store containing the licensed premises must be operational and open during regular business hours. The retail store must be open for business for wine and beer to be sold, dispensed, or consumed.
 - h. The maximum number of seats for the licensed premises shall not exceed twenty-five.
 - i. The square footage of the licensed premises shall not exceed twenty-five percent of the total square footage of the retail store, including the licensed premises.
 - j. Once a license has been established at a particular location, the license may not be transferred to another location without prior approval of the city commission.
10. Class X License. A Class X license shall authorize the licensee to operate a microbrewery and to sell beer produced on the premises by the licensee "on" and "off-sale," and to sell beer making supplies and related services, subject to the following restrictions and conditions:
- a. A Class X license may be issued only to a microbrewery owner or operator who obtains a microbrew pub license pursuant to NDCC Section 5-01-14 or a brewer taproom license pursuant to NDCC Section 5-01-21 from the state tax commissioner allowing for the production of beer.

- b. A Class X license will authorize the licensee to sell, on the microbrewery premises, beer produced by that microbrewery on the premises at on-sale or off-sale, in retail lots of not less than or more than those amounts authorized by NDCC Section 5-01-14. A microbrewery licensed as a microbrew pub under NDCC Section 5-01-14 may produce no more than those amounts authorized by NDCC Section 5-01-14. A microbrewery licensed as a brewer taproom under NDCC Section 5-01-21 may produce no more than those amounts authorized by NDCC Section 5-01-14, and may sell beer wholesale as allowed by that section in containers of not more than those allowed in 5-01-21. A microbrewery may utilize ingredients not produced by the microbrewery in brewing its beer.
 - c. A Class X licensee that holds a microbrew pub license pursuant to NDCC Section 5-01-14 may sell beer produced off of the premises, on-sale only.
 - d. A Class X licensee that holds a brewer taproom license pursuant to NDCC Section 5-01-21 may be issued a special permit under Section 5-01-13 to sell alcoholic beverages "on-sale" at special locations as designated in the permit.
 - e. The Class X license shall be governed by all the provisions of this chapter generally applicable to all license classifications.
 - f. A Class X licensee who is licensed by the state as a brewer taproom under NDCC Section 5-01-21 and obtains a special event permit under NDCC Section 5-02-01.2 from the state tax commissioner may give free samples of its beer and sell its beer by the glass or in closed containers at a designated trade show, convention, festival, or a similar approved event.
11. Class XI License. To an applicant for the sale of retail on-site, wine and beer only. A Class XI license will be issued in the sole discretion of the Devils Lake City Commission. The annual license fee for a class XI license shall be set each year by the city commission in the fees and rates. A Class XI license is subject to the following conditions:
- a. On sale of wine and beer on the licensed premises is permitted.
 - b. Off sale of any alcohol is not allowed.
 - c. Minors are not allowed in the licensed premises, except as permitted by NDCC § 5-02-06.
 - d. The maximum number of seats for the licensed premises shall not exceed seventy-five.
- G. The board of city commissioners may further provide in any license issued pursuant to this chapter the right of an eating establishment to dispense and sell beer and wine in conjunction with the sale of prepared meals on Sunday between the hours of twelve noon and nine p.m. for consumption only in the part of the eating establishment habitually used for the servicing or prepared meals. As used in this section, "eating establishment" means a restaurant, lodge, club or other commercial establishment that is licensed to engage in the sale of alcoholic beverages at retail pursuant to this chapter, and which derives fifty percent or more of its annual gross receipts from the sale of prepared meals and not alcoholic beverages. Whenever this provision for Sunday beer and wine sales is requested, commissioners shall require the licensee to pay an additional annual fee of seventy-five dollars.

Chapter ~~CHAPTER~~ 5 ALCOHOLIC BEVERAGES¹

ARTICLE I. ~~IN~~ GENERAL PROVISIONS

Sec. 5-0. Preamble.

The City of Minot finds that the safety and welfare of its citizens and neighborhoods are of highest priority and the judicious dispensing of alcohol is in keeping with this premise. The possession of an alcoholic beverage license in the city is a privilege, not a right; a privilege that must not be taken for granted, but rather must be continually conditioned by the license holder's adherence to applicable laws and regulations.

Sec. 5-1.

Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- a. Alcohol means neutral spirits distilled at or above one hundred ninety degrees (190) proof, whether or not such product is subsequently reduced, for nonindustrial use.
- b. Alcoholic beverages ~~shall~~ means any liquid suitable for drinking by human beings, which contains one-half of one (0.5) per cent or more of alcohol by volume.
- c. Beer ~~shall~~ means any malt beverage containing one-half of one (0.5) per cent or more of alcohol by volume and includes an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses, which has not undergone distillation.
- d. Bottle or can means any container, regardless of the material from which made, having a capacity less than a bulk container for use for the sale of malt beverages at retail.
- e. Business Complex means any shopping center, shopping mall, or similar physical facility where two or more retail businesses are located and conducted, whether or not such businesses are separately owned and operated.
- f. Consume means the actual drinking of an alcoholic beverage, whether in its original form or mixed with any other ingredient, for the purpose of consumption.
- g. City Council and/or Council means the Minot City Council, its governing body.
- h. Denaturants means additives that when added to alcohol make the alcohol unpleasant to taste, smell, or ingest.
- i. Denatured alcohol means alcohol that has been treated with denaturants to make it unfit for human consumption as a beverage.
- j. Distilled spirits means any alcoholic beverage that is not beer, wine, sparkling wine, or alcohol.

Commented [SS1]: See [Grand Forks City Ordinance Sec. 21-0200](#):

The City of Grand Forks finds that the safety and welfare of its citizens and neighborhoods are of highest priority and the judicious dispensing of alcohol is in keeping with this premise. The possession of an alcoholic beverage license in the city is a privilege, not a right; a privilege that must not be taken for granted, but rather must be continually conditioned by the license holder's adherence to applicable laws and regulations.

Commented [SS2]: Definition from [NDCC 5-01-01\(1\)](#)

Commented [SS3]: Definition from [NDCC 5-01-01\(3\)](#).

Commented [SS4]: Definition from [NDCC 5-01-01\(4\)](#).

Commented [SS5]: Definition from [Fargo City Ordinance 25-1501\(4\)](#).

Commented [SS6]: Definition from [Grand Forks City Ordinance 21-0201\(3\)](#).

Commented [SS7]: Definition similar to [Fargo City Ordinance 25-1501\(5\)](#).

Commented [SS8]: Definition similar to what is found in [Chapter 51, Internal Revenue Code](#).

Commented [SS9]: Definition similar to what is found in [Chapter 51, Internal Revenue Code](#).

Commented [SS10]: Definition from [NDCC 5-01-01\(6\)](#).

k. Distillery refers to a domestic operation wherein the owner/operator of the distillery produces distilled spirits within the state of North Dakota in accordance with the provisions of N.D.C.C. § 5-01-19.

Commented [SS11]: Definition from [Fargo City Ordinance 25-1501\(7\)](#).

l. Entertainment shall mean all forms and types of entertaining the patrons of a licensed premises, whether such entertainment is provided by means of live, audio, and/or video presentations, whether remote or prerecorded; provided, however, that “entertainment” shall not be deemed to include the use of any regularly broadcast television or radio programs, pay-per-view broadcasts, or coin-operated music machines.

m. In bulk means in containers having a capacity not less than one-sixth barrel for use for the sale of malt beverages at retail.

Commented [SS12]: Definition from [NDCC 5-01-01\(7\)](#).

n. Food means food items that are prepared in a kitchen with at least an indoor grill and that are served at a tabletop. Fresh popcorn or prepackaged snacks or candy are not considered food for the purposes of this chapter.

Commented [SS13]: Definition from [Bismarck City Ordinance 5-01-01\(3\)](#).

d-o. Growler shall mean a professionally sanitized and sealed glass bottle with a capacity not to exceed sixty-four (64) ounces filled by a licensee or an employee of a licensee with beer from a keg procured or produced by the licensee in accordance with applicable laws. The sale of a filled Growler is authorized only for those licenses approved to sell alcoholic beverages both on-sale and off-sale. The filling of Growlers by means of a tapped keg shall not constitute breaking of a package. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler or produced by the licensee pursuant to applicable laws. Only professionally sanitized and sealed Growlers may be filled and made available for retail sale. The sale of a filled Growler shall be considered off-sale. A Growler with a broken seal shall be considered an open container for the purposes of Minot City Ordinance 5-3.

Commented [SS14]: Added language from [Bismarck City Ordinance 5-01-01\(4\)](#).

Liquor shall mean any alcoholic beverage except beer.

p. Licensed premises shall mean the premises on which beer, liquor, or alcoholic beverages are normally sold, stored, or dispensed and ~~must be~~ delineated by diagram or blueprint which ~~must~~ shall be included with the license application or the license renewal application.

Commented [SS15]: See [Grand Forks City Code Sec. 21-0201\(5\)](#):

Licensed Premises. The premises on which alcoholic beverages are normally sold or dispensed. Licensed Premises includes all areas where alcoholic beverages are routinely stored, displayed, opened or mixed, and all lounges, bars and restaurants where alcoholic beverages are dispensed or such other location or area as authorized by the Grand Forks City Council, and shall be designated by diagram or blueprint which shall be included with the license application or the license renewal application.

q. Liquor means any alcoholic beverage except beer or wine.

e-r. Local License means a retail alcoholic beverage license issued by the City of Minot.

Commented [SS16]: Definition from current ordinance, consistent with [NDCC 5-01-01\(11\)](#) except that I added wine to clarify that wine would not be considered liquor.

s. Lodge or club shall mean and includes any corporation or association organized for civic, fraternal, social, or business purposes, or for the promotion of sports, which has at least two hundred (200) members at the time a license is applied for ~~pursuant to this chapter, and was in existence at the time of the adoption of the Liquor Control Act for the state. For the purposes of this section, the date of the adoption of the Liquor Control Act of the state shall be November 3, 1936, and shall have been in existence for at least twenty (20) years prior to the time of application for the license; provided, that a local organization that has not existed for twenty (20) years but is a subsidiary of and chartered by a national organization which has had a bona fide existence for more than twenty (20) years shall be deemed to be a “lodge” or “club” for purposes of this article.~~

Commented [SS17]: Added language similar to [Fargo City Ordinance 25-1501\(13\)](#). Our prior definition regarding the Liquor Control Act is similar to Bismarck’s [Section 5-01-01\(8\)](#).

t. Location transfer means a change in the location of the licensed premises.

u. Mandatory Server Training means server training that has been approved by the Minot Police Department and/or its designee for any person responsible for, or participating in, any activity involved in the stream of service of alcoholic beverages, including, but not limited to, selling, dispensing, serving, identification, verification, admission and security at licensed liquor establishments, including restaurants. Mandatory server training applies to, but is not limited to, managers, servers, security bartenders, and door attendants, or any other employee or agent of the Owner in the capacity to determine compliance with applicable laws.

Commented [SS18]: Definition from [Fargo City Ordinance 25-1501\(12\)](#).

Commented [SS19]: Definition from [Fargo City Ordinance 25-1501\(26\)](#).

v. Microbrew pub means a brewer that brews ten thousand (10,000) barrels of beer or less per year and sells beer produced or manufactured on the premises for consumption on or off the premises, or serves beer produced or manufactured on the premises for purposes of sampling the beer.

Commented [SS20]: Definition from [NDCC 5-01-01\(14\)](#).

f.w. Minor means a person that is under twenty-one years of age.

Commented [SS21]: Definition from [Williston City Ordinance §3-1](#).

g.x. Movie theater shall mean any establishment whose business building contains a square footage of at least seven thousand five hundred (7,500) square feet and fixed seating capacity for at least one hundred fifty (150) where motion pictures are screened regularly, and which premises meets building code requirements for said screenings.

h.y. Off-sale shall mean and includes the sale of alcoholic beverages in the original package, or in a gGrowler as defined in this section, for consumption off or away from the licensed premises where sold, including permitted deliveries. Off-sale sales of alcoholic beverages shall occur only at the place designated in such license and not elsewhere, unless the licensee obtains a special event permit in accordance with Minot City Ordinance 5-40. No opening of the package sold on the premises is permitted. An Off-sale sale of alcoholic beverages must be completed by delivery of the beverage sold to the actual purchaser thereof. A licensee with an Off-sale license may periodically provide complimentary samples of alcoholic beverages for promotional purposes, to be consumed on the premises. If a full bottle of wine has been opened and the contents partially consumed on the licensed premises of a license holder whose gross sales of food are at least thirty (30) percent of the establishment's gross sales on the licensed premises, the person purchasing the wine in conjunction with the purchase of a meal may remove the bottle from the licensed premises if the license holder recorks the bottle, seals the bottle with a seal that must be made conspicuously inoperative to reopen the bottle, and places a receipt of sale with the bottle. The removal of the bottle of wine under these circumstances shall not constitute an off-sale transaction.

Commented [SS22]: Added language from [Grand Forks City Ordinance 21-0201\(7\)](#).

z. On-sale shall mean and includes the sale of alcoholic beverages for consumption on the licensed premises where sold except that nothing in this section shall prohibit any person from taking and consuming a lawfully purchased on-sale alcoholic beverage from one licensed premises to another licensed premises located contiguously in the same building. An on-sale license shall authorize the license holder to conduct such on-sales only at the place designated in such license and not elsewhere, unless the licensee obtains a special event permit in accordance with Minot City Ordinance 5-40.

Commented [SS23]: Added language from Added language from [Grand Forks City Ordinance 21-0201\(8\)](#).

Commented [SS24]: Added exception from [Bismarck City Ordinance 5-01-01\(10\)](#).

aa. Organization means a domestic or foreign corporation, general partnership, limited partnership, or limited liability company.

bb. Owner as used in this Chapter means the person or entity that is issued a license to serve alcoholic beverages under the City's ordinances, and is also referred to as the 'licensee' and a 'license holder'.

Commented [SS25]: New language – added with the intent to clarify ownership transfer.

cc. Ownership transfer means any assignment, sale, exchange, or other conveyance of any license issued pursuant to the provisions of this Chapter. An ownership transfer occurs upon the assignment, sale, exchange, or other conveyance of fifty percent (50%) or more of the Owner's interest in their license, whether such assignment, sale, exchange, or other conveyance occurs in one (1) single transaction or multiple transactions within the prior thirty-six (36) months. Recognizing that the licensee may be a business entity consisting of multiple business entities, then in addition to the foregoing, an ownership transfer shall be deemed to occur whenever the a change in ownership interest occurs by a change in ownership of fifty (50%) or more of any of the licensee business entities or by any indirect change of ownership whenever there is a fifty percent (50%), or more, change in ownership held by any single natural person. The term "transfer" shall not apply to the following described conveyances:

Commented [SS26]: See [Fargo Municipal Code No. 25-1501\(17\)](#):

dd. When an individual licensee issued a license pursuant to the provisions of this Chapter has become deceased, the license may be transferred to another individual or business entity upon application of the personal representative of the decedent's estate to the city; provided, however, that such individual or business entity receiving the license is subject to all the requirements of this Chapter relating to the application for a license and the qualifications of the license holder.

ee. When any business entity licensee issued a license pursuant to the provisions of this Chapter voluntarily dissolves, the license may be issued to any individual or business entity that held an ownership interest at the time of the issuance or last renewal of the license (whichever occurred most recently), and whose application is approved by the holders owning a majority of the ownership interest in the business entity

prior to the time of dissolution; provided, however, that such individual or business entity receiving the license is subject to all the requirements of this Chapter relating to the application for a license and the qualifications of the license holder.

ff. When an individual licensee desires to transfer a license to a business entity in which the license holder is the owner of at least a majority of the ownership interest in the business entity; provided, however, that such licensee's ownership in the transferee business entity does not fall below a majority interest in the transferee business entity without the prior approval of the city council and reapplication for a the license by the transferee business entity. The transferee business entity shall be subject to all of the requirements of this Chapter relating to the application for a licensee and the qualifications of a license holder.

gg. When a business entity licensee desires to transfer its license to another business entity having substantially the same partners or stockholders; provided, however, that such individual or business entity receiving the license is subject to all the requirements of this Chapter relating to the application for a license and the qualifications of the license holder.

hh. When an individual licensee desires to transfer their license to a Relative as defined herein. For purposes of this subsection only, a similar conveyance of shares of stock in a license holder corporation shall not be considered a "transfer" if the person seeking to convey shares of stock owns at least a majority of the outstanding shares of the stock in the corporation or is seeking to convey shares or stock to a blood Relative as defined herein.

ii. Package and original package shall means and includes any container or receptacle holding alcoholic beverages which is corked or sealed by the manufacturer and which cork or seal has not been removed or broken prior to the sale of such package to the purchaser; provided, however, except that the filling of a growler, as defined in this section, shall not constitute the breaking of a package under this definition.

jj. Person shall means and includes persons, partnerships, unincorporated associations, and bodies corporate.

kk. Private golf course shall means a privately owned USGA approved golf course with at least nine (9) or more holes.

ll. Relative means any individual having a relationship with another individual by marriage, blood, or adoption. This term explicitly includes a mother, father, stepmother, stepfather, grandparent, brother, sister, stepbrother, stepsister, and grandchild. Should any dispute arise over whether an individual is a relative for purposes of applying this ordinance, the Council shall defer to the definition of a relative provided by the North Dakota Century Code.

mm. Restaurant shall means a business which prepares and sells food and meals for consumption on the premises where sold, which is properly licensed or permitted for such activity by the appropriate public health authorities who have charge of such matters. A business that offers only fresh popcorn or prepackaged snacks or candy for consumption on the premises are not considered restaurants for the purposes of this chapter.

nn. Sale shall means and includes all methods or modes of furnishing alcoholic beverages for a consideration, including selling, exchanging, bartering, dispensing or similar means of transfer. Such term shall include all transactions, whether for cash, credit or other consideration and shall include, but not be limited to, transactions where the consideration for the alcoholic beverage is included or combined with another transaction or where the consideration is considered a "donation", or used to purchase any ticket, token, or other object redeemable for alcoholic beverages. The term also includes the keeping for sale and disposition of such alcoholic beverages. any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal proprietor, agent, servant, employee or corporation.

oo. Sell at retail or sale at retail. Retail sale shall mean a sale of alcoholic beverages to a consumer for use or consumption and not for the purpose of resale in any form.

pp. Sparkling wine shall mean wine made effervescent with carbon dioxide.

Commented [SS27]: Added language from Fargo
Municipal Code No. 25-1501(22)

gg. *Supper club* shall mean an establishment or enterprise which primarily operates as a restaurant, which restaurant has the capacity to seat one hundred fifty (150) or more patrons at the same time, and which shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area. The seating capacity requirement set forth in the previous sentence shall not be applicable to an establishment or enterprise which primarily operates as a restaurant and is located in the Renaissance Zone as established by the City of Minot. If a licensee obtains a supper club license and the restaurant is located in the Renaissance Zone when the license is issued, but the Renaissance Zone is subsequently altered so the restaurant is no longer in the Renaissance Zone, the one-hundred-fifty-seat requirement shall not be applicable, so long as the location of the restaurant remains the same and the licensee meets all other requirements of a supper club licensee.

q-rr. *Transfer* shall mean as context provides, either a change in location of the licensed premises, or any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this Chapter.

f-ss. *Twenty-one years of age shall mean* it is after 8:00 a.m. on the date twenty-one (21) years after a person's date of birth.

s-tt. *Wholesaler* shall mean and include any person engaged in the sale and distribution of liquor at wholesale to persons holding a retail license for the sale and distribution of alcohol and alcoholic beverages within the state or interstate commerce.

uu. *Wine shall mean* the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four (24) per cent alcohol by volume.

t-vv. *Winery* shall mean a domestic operation wherein the owner/operator of the winery shall produce wine within the state of North Dakota in accordance with the provisions of N.D.C.C.

(Ord. No. 5372, § 1; Ord. No. 5525, § 1)

Sec. 5-2. Application of chapter.

This chapter is declared to be an exercise of the police power directly affecting and designed to promote the peace, safety, good order, health, and well-being of the people of this city. This chapter shall apply to all territory within the city and to such outlying contiguous territory without the corporate limits within which the city may exercise police jurisdiction as defined by law.

(Ord. No. 5372, § 1)

Sec. 5-23. Authority, Territorial Jurisdiction, and Application of Chapter.

Pursuant to Chapter 40-05.1 of the North Dakota Century Code (N.D.C.C.) and the Home Rule Charter of the City of Minot, the City of Minot has the authority to regulate the sale and consumption of alcoholic beverages. This chapter is declared to be an exercise of the police power directly affecting and designed to promote the peace, safety, good order, health, and well-being of the people of this city. This chapter shall apply to all territory within the city and to such outlying contiguous territory without the corporate limits within which the city may exercise police jurisdiction as defined by law.

Sec. 5-3. Exceptions.

- a. This chapter shall not apply to wines delivered to priests, rabbis, pastors, and ministers for sacramental use.
- b. This article shall not be construed to apply to the following items, when they are unfit for beverage purposes:
 1. Denatured alcohol produced and used pursuant to federal law;

Commented [SS28]: See [Fargo Municipal Code No. 25-1501\(24\)](#):

"Transfer" shall mean a change in location of the licensed premises; or any assignment, sale, exchange or other conveyance of any license issued pursuant to the provisions of this article.

Commented [SS29]: See [Fargo Municipal Code No. 25-1501\(28\)](#):

Commented [SS30]: Amended to clarify authority and jurisdiction and moved to new Section 5.1

Commented [SS31]: See [Grand Forks City Code § 21-0203](#):

- (1) This article shall not apply to wines delivered to priests, rabbis, pastors 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 federal law;
 - (B) Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations;
 - (C) Flavoring extracts, syrups, food products or alcoholic products involved in food preparation;
 - (D) Scientific, chemical, and industrial products;
 - (E) Manufacture or sale of such articles containing alcohol.

2. Patent, proprietary, medical, pharmaceutical, antiseptic, and toilet preparations;
3. Flavoring extracts, syrups, food products, or alcoholic products involved in food preparation;
4. Scientific, chemical, and industrial products;

Nor to the manufacture or sale of the aforementioned items containing alcohol.

Sec. 5-4. Bottle Clubs Prohibited – Penalty.

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

Sec. 5-5 through 5-10. - Reserved.

ARTICLE II. MINORS

Sec. 5-11. Possession and consumption of alcoholic beverages by minors.

- a. Except as permitted in this chapter, a person under twenty-one (21) years of age (a “minor”) shall not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purpose of an alcoholic beverage.
- a-b. This offense shall be presumed to have occurred within the city limits if actual consumption occurs within the city or the individual having consumed alcoholic beverages is arrested within the city limits.
- c. A minor that violates this section is guilty of an infraction.

Sec. 5-12. Presence in licensed premises prohibited as to minors.

It shall be unlawful for any minor to enter, be upon, or otherwise be present upon a licensed premises where any form of alcoholic beverages is sold or offered for sale, unless such minor qualifies under state law or one of the exceptions specifically set forth in Section 5-14 of this Article II. A minor that violates this section is guilty of an infraction.

Sec. 5-13. Licensee prohibited from allowing minors on licensed premises.

It shall be unlawful for any licensee or any of their agents or employees to permit any minor to enter or be upon the premises where alcoholic beverages are sold or are allowed to be sold unless such minor qualifies under state law or one of the exceptions specifically set forth in Section 5-14 of this Article II.

Sec. 5-14. Exceptions permitting minors to enter a licensed premises.

- a. A minor may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:
 1. A restaurant if accompanied by a parent or legal guardian;
 2. In accordance with subsection (b) of this section;
 3. If the individual is an independent contractor or the independent contractor’s employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
 4. If the individual is a law enforcement officer or other public official who enters the premises in the performance of their official duty;

Commented [SS32]: This is in NDCC 5-01-10.

5. If the individual enters the premises for training, education, or research purposes under the supervision of a person twenty-one (21) years or more years of age with prior notification to the City.

b. At the discretion of the owner of the licensed premises, a minor may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:

1. Is accompanied by a parent or guardian;
2. Is not seated at or within three feet (0.91 meters) of the bar counter; and
3. Does not enter or remain in the designated area after 10:00 p.m.

A minor may be permitted to remain in a restaurant where alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the restaurant as a food waiver, food waitress, busboy or busgirl under the direct supervision of an individual twenty-one (21) years of age or older and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

Sec. 5-15. Misrepresentation of Age.

a. Any person who misrepresents or misstates their age or the age of any other person by making a false statement or by presenting a false or fictitious registration card, drivers license, identification card, or any other document purporting to show that person is of legal age to purchase alcoholic beverages is guilty of a class B misdemeanor.

b. Any licensee may keep a book and may require anyone who has shown documentary proof of that person's age, which substantiates that person's age to allow the purchase of alcoholic beverages, to sign the book if the age of that person is in question. The book must show the date of the purchase, the identification used in making the purchase and the appropriate numbers of such identification, the address of the purchaser, and the purchaser's signature.

c. A licensee or their employee may determine proof of age for purchasing or consuming alcoholic beverages solely by an inspection of one of the following:

1. A valid driver's license or identification card issued by the state, another state, or a province of Canada which includes the photograph and date of birth of the licensed individual;
2. A valid military identification card issued by the United States department of defense; or
3. A valid passport issued or recognized by the United States.

d. A licensee or their employee may seize a form of identification displayed as proof of age if the licensee or their employee has a reasonable belief that the form of identification has been altered, falsified, or is being used to unlawfully obtain alcoholic beverages.

e. Within twenty-four hours of seizing a form of identification as allowed under this section, a licensed retailer or an employee of a licensed retailer shall notify a law enforcement agency of the seizure and the law enforcement agency shall take possession of the identification within twenty-four hours after receipt of the notice.

Sec. 5-16. Purchasing for or furnishing alcohol to minors.

It shall be unlawful for any person to purchase or procure for any minor, any form of alcoholic beverages or to furnish or deliver any such alcoholic beverages to any minor.

Sec. 5-17. Licensee shall not sell or dispense alcoholic beverages to minors.

Commented [SS33]: Sec. 5-14 a and b are taken from NDCC 5-01-08.1

Commented [SS34]: The rest of this section is taken from NDCC 5-01-08.3.

It shall be unlawful for any licensee, or any of their agents, servants, or employees, to sell, dispense, or deliver alcoholic beverages in any form to a minor, or to permit the consumption of alcoholic beverages upon the licensed premises by any minor, or to permit any sale, dispensing, delivering, of any alcoholic beverages to a minor.

Sec. 5-18. Licensee shall not allow minors to be furnished with alcoholic beverages.

It shall be unlawful for any licensee, or any of their agents, servants, or employees, to permit any minor to be furnished with any alcoholic beverages on the premises for which a license is granted and issued pursuant to this chapter.

5-19. Penalties, referral to addiction facilities, immunity from prosecution.

- a. For a first violation of subsections 5-11 and 5-12 the court may sentence a violator to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- b. For a second or subsequent violation of subsections 5-11 and 5-12 the court must sentence a violator to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- c. For any violation of subsection 5-11 and 5-12, the court may refer individuals that violate this Article to an outpatient addiction facility licensed by the department of health and human services for evaluation and appropriate counseling or treatment.
- d. A minor is immune from criminal prosecution under subsections 5-11 and 5-12 if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one (21) years of age was in need of medical assistance due to alcohol consumption, provided the assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals who may be immune for any one (1) occurrence is five (5) individuals.
- e. The elements of criminal scienter and the defenses to a charge under this section shall be as provided in state law with respect to the cognate offenses established therein.
- f. Nothing herein shall be construed to prohibit the consumption (as opposed to the sale) of alcoholic beverages in bowling centers under the following circumstances:
 - (1) The licensee owning or controlling the bowling center must approve to such consumption;
 - (2) There must be a designated area where beverages are purchased, served, and/or mixed and persons under twenty-one (21) years of age may not enter that designated area of the licensed premises;
 - (3) The designated area must be separated from the rest of the establishment by a permanent partition/barrier which is at least three (3) feet in height.
 - (4) Alcoholic beverages purchased within the designated area may be consumed in the bowling area and concourse adjacent to the bowling area.

Commented [SS35]: I'd like to move this language somewhere else -

Sec. 5-20 through 5-25. - Reserved.

ARTICLE III. ALCOHOL LICENSES

Division 1. Licenses – Generally.

Sec. 5-26. License Required To Sell Alcoholic Beverages, Exceptions.

- a. No person shall sell alcoholic beverages at retail within the city limits of Minot without securing a state license and a license from the City of Minot.
- b. The City of Minot's license shall allow the sale (and consumption, when applicable health code requirements are met) of alcoholic beverages only on the premises to which the license specifically relates, unless the licensee obtains a special event permit pursuant to [Sec. 5-27](#).
- c. No licensee shall be permitted to hold more than one (1) license under this Article per premises, unless specifically authorized in this Article.
- d. All licenses or permits issued by the City pursuant to this chapter confers a privilege on the license holder to engage in the activity or occupation so licensed, and do not constitute property or property rights or create any such property rights in any license holder or applicant. No license or permit issued under this article may be mortgaged, encumbered, pledged, seized, levied upon, attached, executed upon, assessed, or in any manner taken for the purpose of securing, or in satisfaction of, any debt, judgment lien, mortgage, encumbrance, or obligation.
- e. Exceptions.
 1. No license under this section shall be required for a domestic winery owner or operator having a license from the state tax commissioner allowing the production of wine and only being present within the city to utilize special event permits issued by the state tax commissioner under Section 5-01-17, N.D.C.C., provided that the owner or operator presents the state tax commissioner permit to the city clerk and obtains a permit for each event from the city clerk in accordance with the procedure set forth in section 5-40 of the Code of Ordinances.
 2. This section does not apply to public carriers engaged in interstate commerce.
 3. This section does not apply to a nonprofit organization that sells an alcoholic beverage as part of a fundraising activity. As used in this subsection, fundraising activity includes an auction, raffle, or other prize contest for which consideration is given. If the alcoholic beverage is sold as part of a fundraising event, the sale may not be for consumption at that event.

Commented [SS36]: This could accompany the Council decision whether or not to remove the license cap/alleged property right:

See [Grand Forks City Code § 21-0202](#):

1. No person shall sell at retail within the city limits of Grand Forks any alcoholic beverages without first having obtained a license therefor as herein provided.

2. All licenses or permits issued by the city pursuant to this article confer a privilege on the license holder to engage in the activity or occupation so licensed, and do not constitute property or property rights or create any such rights in any license holder or applicant. No license or permit issued under this article may be mortgaged, encumbered, pledged, seized, levied upon, attached, executed upon, assessed or in any manner taken for the purpose of securing, or in satisfaction of, any debt, judgment, lien, mortgage, encumbrance or obligation.

Division 2. Application for License; Qualifications of Licensee.

Division 3. Regulation of Licensed Premises and Patrons.

Division 4. Termination, Revocation, and Suspension.

Division 5. Penalties.

(Supp. No. 118)

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f.—Sec. 5-5. Unlawful possession or use of alcoholic beverages.

(a)—Except as permitted in this section or by state law, no person under twenty-one (21) years of age shall manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of alcoholic beverages.

(b)—The elements of criminal scienter and the defenses to a charge under this section shall be as provided in state law with respect to the cognate offense established therein.

(c)—An individual who violates this section is guilty of an infraction:

- (1)—For a violation of section 5-5, the court also may sentence a violator to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- (2)—For a second or subsequent violation of section 5-5, the court shall sentence a violator to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- (3)—The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of health and human services for evaluation and appropriate counseling or treatment.
- (4)—An individual under twenty-one (21) years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one (21) years of age was in need of medical assistance due to alcohol consumption, provided the assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals who may be immune for any one (1) occurrence is five (5) individuals.

Commented [SS37]: Corbin/Nick – Do we think this sentence is important to keep in our ordinances? I'm thinking of just deleting it.

Sec. 5-6. Persons under twenty-one not to enter upon licensed premises; exceptions.

(a)—Except as otherwise provided in this chapter, or under state law, no person under the age of twenty-one (21) may enter any premises licensed for the sale of alcoholic beverages. An individual who violates this section is guilty of an infraction.

- (1)—For a violation of subsection 5-6(a), the court may sentence a violator to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- (2)—For a second or subsequent violation of section 5-6(a), the court shall sentence a violator to an evidence-based alcohol and drug education program operated under the rules adopted by the department of human services under Section 50-06-44, N.D.C.C.
- (3)—The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of health and human services for evaluation and appropriate counseling or treatment.
- (4)—An individual under twenty-one (21) years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one (21) years of age was in need of medical assistance due to alcohol consumption, provided the assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals who may be immune for any one (1) occurrence is five (5) individuals.

(b) —No person in charge of a licensed premises shall permit any person under the age of twenty-one (21) to enter upon or to remain upon licensed premises within his control, subject to the following exceptions and any other exception provided in state law:

- (1) —A person under the age of twenty-one (21) years of age may remain in a restaurant if the restaurant is separated from the designated area in which alcoholic beverages are opened or mixed and if gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
- (2) —A person under the age of twenty-one (21) years of age may remain in a restaurant if the person is employed by the restaurant as a food waiter, food waitress, busboy or busgirl under the direct supervision of an individual twenty-one (21) years of age or older, and does not engage in the sale, dispensing, delivery, or consumption of alcoholic beverages;
- (3) —A person who is eighteen (18) years of age or older but under the age of twenty-one (21) when employed by a restaurant licensed to sell alcoholic beverages to serve and collect money for alcoholic beverages, if the person is under the direct supervision of a person twenty-one (21) or more years of age, but such person may not be engaged in mixing, dispensing, or consuming alcoholic beverages;
- (4) —A person who is under twenty-one (21) years of age may enter and remain on the licensed premises if the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;
- (5) —A person who is under twenty-one (21) years of age may enter and remain on the licensed premises if the individual is a law enforcement officer or other public official who enters the licensed premises in the performance of official duty;
- (6) —Notwithstanding any other ordinance or state statute to the contrary, a person under the age of twenty-one (21) cooperating with and under control of a law enforcement officer may enter a licensed premises for the purposes of a compliance check on whether the licensee is complying with the laws prohibiting the sale of alcoholic beverages to a person under twenty-one (21) years of age; and
- (7) —A person who is under twenty-one (21) years of age may attend an event where alcoholic beverages are sold in accordance with the conditions of an event permit issued pursuant to section 5-40.
- (8) —At the discretion of the owner of the licensed premises, an individual under twenty-one (21) years of age may be permitted to enter and remain in a restaurant where alcoholic beverages are being sold and in the area of the restaurant designated for the opening or mixing of alcoholic beverages if the individual:
 - i. —Is accompanied by a parent or guardian;
 - ii. —Is not seated at or within three feet [0.91 meters] of the bar counter; and
 - iii. —Does not enter or remain in the designated area after 10:00 p.m.

(c) —The elements of criminal scienter and the defenses to a charge under this section shall be as provided in state law with respect to the cognate offenses established therein.

(d) —Nothing herein shall be construed to prohibit the consumption (as opposed to the sale) of alcoholic beverages in bowling centers under the following circumstances:

- (1) —The licensee owning or controlling the bowling center must approve to such consumption;
- (2) —There must be a designated area where beverages are purchased, served, and/or mixed and persons under twenty-one (21) years of age may not enter that designated area of the licensed premises;
- (3) —The designated area must be separated from the rest of the establishment by a permanent partition/barrier which is at least three (3) feet in height.

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(Supp. No. 118)

(4) —Alcoholic beverages purchased within the designated area may be consumed in the bowling area and
concourse adjacent to the bowling area.

(Ord. No. 5372, § 1; Ord. No. 5638, § 2)

Sec. 5-6.1. Misrepresentation of age.

No person shall misrepresent orally or in writing his own age or the age of any other person with the intent
of causing another person to rely upon the misrepresentation, based on that reliance;

(1) —To deliver an alcoholic beverage to a person who is less than twenty-one (21) years of age; or

(2) —To allow a person who is less than twenty-one (21) years of age to enter or to remain on licensed
premises under circumstances where it is unlawful for such person to do so.

Under this section, the person making the misrepresentation and the person sought to be benefitted by the
misrepresentation may be but need not necessarily be one (1) and the same person.

(Ord. No. 5372, § 1)

Sec. 5-7. Solicitation of drinks.

No person shall loiter on any premises licensed under this chapter for the consumption or sale of alcoholic
beverages with the purpose of soliciting other persons to purchase alcoholic beverages for the solicitor. No
licensee shall allow the presence of any person on the licensed premises who solicits persons to purchase the
solicitor an alcoholic beverage.

(Ord. No. 5372, § 1)

4. Sec.

Sec. 5-27. License - Qualifications.

Sec. 5-18. Application.

No license may be issued under this chapter unless the applicant files a sworn application on the form provided by
the City Clerk, accompanied by the required annual fee, showing the following qualifications and providing the
following information:

(1) The type of license being applied for.

(2) The street address and legal description of the premises sought to be licensed accompanied by a clear
and understandable floor plan of the premises to be licensed.

(3) The applicant, other than an organization, must be a legal resident of the United States and be a
person of good moral character.

(4) If the applicant is:

a. A corporation, then:

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Commented [SS38]: Moved up to Sec. 5-12. And I used
the language in [NDCC 5-01-08.1](#) and [City of Williston's Sec.
3-22](#).

Corbin/Nick – let me know your thoughts on whether we
should keep some of the existing ordinance language

Commented [SS39]: Corbin/Nick – I have always felt like
this may present free speech issues, do any other cities have
this section? I don't see anything in state law prohibiting
solicitation of drinks if you are of age. . .

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1. The manager of the licensed premises and the officer and directors must be legal residents of the United States and persons of good moral character; and
 2. The shareholders:
 - i. Who are individuals, must be legal residents of the United States and of good moral character; and
 - ii. Which are organizations, must meet the requirements of this section for applicants that are organizations.
 - iii. Corporate applicants must first be properly registered with the secretary of state.
- b. A limited liability company, then:
1. The manager of the licensed premises and the managers and governors must be legal residents of the United States and of good moral character.
 2. The members:
 - i. Who are individuals, must be legal residents of the United States and of good moral character; and
 - ii. Which are organizations must meet the requirements of this section for applicants that are organizations.
 - iii. The applicant must first be properly registered with the secretary of state.
- c. A limited partnership, then:
1. The manager of the licensed premises must be a legal resident of the United States and of good moral character.
 2. The general partners and limited partners:
 - i. Who are individuals, must be legal residents of the United States and of good moral character; and
 - ii. Which are organizations, must meet the requirements of this section for applicants that are organizations.
 - iii. The applicant must first be properly registered with the secretary of state.
- d. A general partnership, then:
1. The manager of the licensed premises must be a legal resident of the United States and of good moral character.
 2. The partners:
 - i. Who are individuals, must be legal residents of the United States and of good moral character; and
 - ii. Which are organizations, must meet the requirements of this section for applicants that are organizations.
- e. A limited liability partnership, then:
1. The manager of the licensed premises must be a legal resident of the United States and of good moral character.
 2. The general partners and limited partners:

- i. Who are individuals, must be legal residents of the United States and of good moral character; and
- ii. Which are organizations, must meet the requirements of this section for applicants that are organizations.
- iii. Limited liability partnership applicants must first be properly registered with the secretary of state.

- (5) The applicant or manager must not have been convicted of an offense determined by the attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer, or, following conviction of any offense, is determined not to be sufficiently rehabilitated under Section 12.1-33-02.1, N.D.C.C.
- (6) Any agreements or understandings to obtain an alcoholic beverage license for any other person, partnership, or corporation must be indicated on the application.
- (76) Any other interest that the applicant may have, either directly or indirectly, in any other liquor establishment in or out of the state must be indicated upon the sworn application.
- (87) If applicant is buying an existing business, application must include a copy of purchase agreement.
- (98) If applicant is leasing an existing business, application must include a copy of lease agreement.
- (10) The building in which business is to be conducted must meet local and state requirements for sanitation and safety.
- (11) The applicant
- (9) The city may require the applicant to set forth such other information in the application as necessary to enable it to determine if a license should be granted.
- (10) Applicants shall not be delinquent in payments of lodging taxes under Chapter 28½ of the Minot Municipal Code. -Applicants shall provide documentation evidencing that all lodging taxes owed are current.

(Ord. No. 5372, § 1)

Sec. 5-18.1. Disqualifying circumstances.

The circumstances described hereafter disqualify an applicant for a license under this chapter:

- (1) The applicant or manager must not have been convicted of an offense determined by the attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer; or, following conviction of any offense, is determined not to be sufficiently rehabilitated under Section 12.1-33-02.1, N.D.C.C.
- (2) The applicant may not have any financial interest in any wholesale alcoholic beverage business.

(Ord. No. 5372, § 1)

Sec. 5-28. Qualifications of License Holder.

Sec. 5-29. Term and License Fees.

- a. Except where otherwise provided in this article, all licenses issued hereunder shall be for a period of not more than one (1) year, and shall expire on the thirty-first day of December in each year. Where a license is granted for a period less than a year, any subsequent renewal thereof must be made for the full annual term.

b. Initial, transfer, and annual fees shall be established by City Council resolution and kept on file with the City Clerk.

c. The annual license fee may be prorated, depending upon the date of the license application as follows:

Application Date	Pro-rated amount
January, February, March	Full license fees due
April, May, June	75% of license fees due
July, August, September	50% of license fees due
October, November, December	25% of the license fees due

Issuance and transfer fees shall not be prorated.

5-819. Licensee to close at certain times.

- (a) No one shall dispense or permit the consumption of alcoholic beverages on a licensed premises between 2:00 a.m. and 8:00 a.m., on Christmas Day, or after 6:00 p.m. on Christmas Eve, ~~or after 2:00 a.m. on Easter Day.~~
In addition, a person may not provide off sale after 2:00 a.m. on Thanksgiving Day or between 2:00 a.m. and 8:00 a.m. on Sundays.
- (b) During such time of each day when, pursuant to subsection (a), the sale or consumption of alcoholic beverages is not allowed on licensed premises, it shall be unlawful for any person to enter upon or to remain on licensed premises, except for:
- (1) The licensee;
 - (2) Employees of the licensee and employees of a permitted gaming operation on the licensed premises while they are actively carrying on their duties with regard to the licensed business or gaming operation;
 - (3) A bona fide independent contractor who has entered into a contract with the licensee to perform work on the licensed premises, while actively performing such contract; and
 - (4) Persons who are on the licensed premises pursuant to a special permit issued by the city council (which permit may contain such limitations and conditions as the council deems appropriate to impose).

(Ord. No. 5372, § 1; Ord. No. 5427, § 1; Ord. No. 5638, § 3)

Sec. 5-9. Wine tasting permitted.

A licensed off-sale retailer may permit the sampling of wine upon the licensed premises.

(Ord. No. 5372, § 1)

Sec. 5-10. Retail delivery prohibited; exception.

It shall be unlawful for any licensed taxicab driver to make, or assist in the making of any deliveries of alcoholic beverages outside of a place of business licensed pursuant to this chapter, except when accompanied by the purchaser. Any licensed retailer, using a vehicle marked as prescribed in this section, may make deliveries of alcoholic beverages or beer. Such deliveries shall not be made during the last thirty (30) minutes the licensee is legally open for business. Any vehicle so used for making such deliveries shall have the name of the licensee painted or attached in contrasting color on the side of such delivery vehicle. Such letters shall not be less than two (2) inches high and of corresponding proportionate width. The retail licensee shall secure a receipt from the purchaser in accordance with the form prescribed by the police department. Such receipt will show:

- (1) The name of the licensee making the sale.

Commented [SS40]: Aligns with NDCC 5-02-05: Dispensing Prohibited on certain days – Penalty.

(Supp. No. 118)

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- (2) The name and age of the purchaser.
 - (3) The name and age of the person making the delivery.
 - (4) The date of the delivery and the quantity delivered.
 - (5) The signature of the recipient of the beverage so sold and delivered.

It shall be the responsibility of the retail licensee to retain the above prescribed form and such receipts retained shall be open to inspection by the police department. The retail licensee shall be fully responsible for any and all deliveries made by and for the licensee.

(Ord. No. 5372, § 1)

Sec. 5-11. Clubs and lodges prohibited from making off-sales, and from making deliveries of alcoholic beverages.

It shall be unlawful for any nationally organized or recognized fraternal order or club or any nationally organized and recognized servicemen's or veterans' organization holding a license from the city to sell any alcoholic beverage for off-sale purposes or, except as allowed pursuant to section 5-40(2) by way of a temporary permit, to make, or aid in the delivery of any alcoholic beverages outside its licensed premises.

(Ord. No. 5372, § 1)

Sec. 5-12. Mandatory alcohol server training.

- (a) No person shall work in any premises licensed under this chapter for the sale of alcoholic beverages, whether on- or off-sale, as a manager, bartender, waiter, waitress, or in any other capacity where such person may sell, serve or deliver alcoholic beverages in or from premises licensed under this chapter or whose job description entails the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premises unless such person has successfully completed server training presented by the First District Health Unit or by a trainer approved by the First District Health Unit, and has obtained a certificate of training within 90 days of beginning work at said licensed premise.
- (b) All certificates of training issued under this chapter shall be valid for three (3) years from the date of issuance. The certificate of training may be renewed by its holder prior to its expiration as provided herein.
- (c) All persons licensed under Article II for the sale of alcoholic beverages, whether on- or off-sale, shall require all employees engaged in the sale, service, delivery, or management of the sale or service of alcoholic beverages, or the checking of identification for the purchase of alcoholic beverages or admittance into the licensed premise to possess certification required hereunder within 90 days of beginning work at said licensed premise.
- (d) Each licensee under Article II shall maintain on file at its licensed premises a listing of each person employed by the licensee, identifying all employees required to obtain training under this article, date of hire for such employees, and proof of a current certificate of server training that was presented or approved by the First District Health Unit for such employee.
- (e) Application for server testing shall be submitted to the First District Health Unit, or approved trainer, upon forms provided by the First District Health Unit or approved trainer and such application shall be verified under oath and shall contain such information as determined by the First District Health Unit to be reasonably required for the purposes of determining competency and eligibility.
- (f) All training programs and instructors must be approved by the First District Health Unit.
- (g) All training programs shall minimally include the following topics:

Commented [CD41]: See Grand Forks Municipal Code No. 21-0235.

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- (1) Reducing accessibility of alcohol to minors.
- (2) Over-consumption/over-serving of alcohol.
- (3) Server liability.
- (4) Drunk driving.

- (h) The First District Health Unit may authorize and approve a person or entity for the administration of any test or training program required hereunder.
- (i) Any person having completed the approved training must attain a minimum score of seventy-five (75) percent on a test administered by, under the direction of, or approved by the First District Health Unit in order to successfully complete the training and obtain or renew a certificate.
- (j) Each person successfully completing the training and test will be issued a certificate by the First District Health Unit, or approved trainer, establishing the date of successful completion of training.
- (k) Each certificate shall expire three years from the date of issuance.
- (l) The First District Health Unit and the City of Minot Police Department shall both have the authority to **conduct** compliance checks to ensure licensee are following subsection 5-12 (a) and (c).

Commented [CD42]: Are we ok with both PD and First District conducting compliance checks?

Sec. 5-13. Penalty for failure to complete mandatory alcohol server training.

Commented [CD43]: See Grand Forks Municipal Code No. 21-0236.

- (a) Any licensee who employs a person in violation of subsection(s) 5-12 (a) or (c) shall be subject to a fine as follows:
 - (1) A fine of fifty dollars (\$50.00) for a first violation;
 - (2) A fine of one hundred dollars (\$100.00) for a second violation within one year of the first violation;
 - (3) A fine of two hundred dollars (\$200.00) for each violation within one year of the second violation;
- Any imposed fine shall be paid to the City of **Minot**.

Commented [CD44]: Who do we want to impose the fines?
Will they be paid through PD or Finance?

~~Secs. 5-12—5-14. Reserved.~~

ARTICLE II. LICENSES

~~Sec. 5-15. License required; exception.~~

- ~~(a) No person shall engage in the sale of alcoholic beverages at retail within the city without first obtaining a license therefore.~~
- ~~(b) The license shall allow the sale (and consumption, when applicable health code requirements are met) of alcoholic beverages only on the premises to which the license specifically relates (unless special permission to do otherwise is obtained as provided for elsewhere in the chapter).~~
- ~~(c) No licensee shall be permitted to hold more than one (1) license under this article per premises unless it is specifically authorized in this chapter.~~

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~~(d) —No license shall be required for a domestic winery owner or operator having a license from the state tax commissioner allowing the production of wine and only being present within the city to utilize special event permits issued by the state tax commissioner under Section 5-01-17, N.D.C.C., provided that the owner or operator presents the state tax commissioner permit to the city clerk and obtains a permit for each event from the city clerk in accordance with the procedure set forth in section 5-40 of the Code of Ordinances.~~

~~(Ord. No. 5372, § 1)~~

Sec. 5-16. Classes of licenses; license fees; license restrictions; limitation on number of licenses.

(1) *Retail beer.*

- a. A retail beer license shall be for the on-sale and/or off-sale of beer.
- b. Fee. The fee for a retail beer license shall be six hundred twenty-five dollars (\$625.00) per year.
- c. A holder of a retail beer license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.

(2) *Retail liquor.*

- a. A retail liquor license shall be for the on-sale and/or off-sale of liquor, beer, and wine.
- b. Fee. The fee for a retail liquor license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. A holder of a retail liquor license on or before June 1, 1973 shall not convey nor transfer that license and submit application for another license in one (1) of the two (2) newly designated classes of licenses.
- d. Limitation on number of licenses. The total number of retail liquor licenses in force in any one (1) year shall not exceed one (1) for each one thousand five hundred (1,500) persons, or major fraction thereof, of the total population of the city. The city council may issue such additional licenses as it deems warranted by the change in population. Before the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census. After the official 2020 United States Census, this population of the city shall be determined by the most recent official federal, regular, or special census or by the annual official United States Census Bureau population estimate.

(3) *Retail beer and wine.*

- a. A retail beer and wine license shall be for the on-sale and/or off-sale of beer and/or wine.
- b. Fee. The fee for a retail beer and wine license shall be nine hundred fifty dollars (\$950.00).

(4) *Specialty restaurant wine sale.*

- a. A specialty restaurant wine sale license shall be for the sale of wine to be consumed on the licensed premises in conjunction with the sale of restaurant food.
- b. Fee. The fee for a specialty restaurant wine sale license shall be three hundred twenty-five dollars (\$325.00) per year.
- c. Restrictions.
 1. A specialty restaurant wine sale licensee is not permitted to sell wine for removal from the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C.

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2. A specialty restaurant wine sale licensee shall not serve or allow to be consumed any other alcoholic beverage on the licensed premises except beer as authorized under subsection (5)c.1.

(5) *Specialty restaurant beer sale.*

- a. A specialty restaurant beer sale license shall be for the sale of beer to be consumed on the licensed premises in conjunction with the sale of restaurant food.
- b. Fee. The fee for a specialty restaurant beer sale license shall be six hundred twenty-five dollars (\$625.00) per year.
- c. Restrictions.
 1. A specialty restaurant beer sale licensee is permitted to sell wine only if a separate specialty restaurant wine sale license is obtained for an additional three hundred twenty-five dollars (\$325.00) per year.

(6) *Supper club.*

- a. A supper club license shall be for the on-sale of liquor, beer, and wine at an establishment defined as a supper club under section 5-1(17) of this Code.
- b. Fee. The fee for a supper club license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Restrictions.
 1. A supper club licensee shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 2. A supper club licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40(2) by way of a temporary permit;
 3. A supper club licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the supper club;
 4. A supper club licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away; and
 5. A supper club licensee shall discontinue the sale and consumption of alcoholic beverages on the licensed premises within one (1) hour of the time the full kitchen is not in operation. During all other hours of the supper club, the full kitchen shall remain in operation for continuous food service.
- d. Verification of compliance requirement.
 1. To verify that the licensee meets the requirement of section 5-16(6)c.1., a supper club licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of section 5-16(6)c.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.

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3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.

e. Limitation on number of licenses. There shall be no restriction on the number of supper club licenses.

(7) *Winery.*

- a. A winery license shall be for the on-sale and/or off-sale of wine produced by the winery on the licensed premises, in retail lots, and not for resale, in total quantities not to exceed twenty-five thousand (25,000) gallons in a calendar year. The sale of wine must occur on the licensed premises.
- b. Fee. The fee for a winery license shall be three hundred twenty-five dollars (\$325.00).
- c. Restrictions.
 1. A winery licensee must hold a license from the state tax commissioner allowing for the production of wine on the licensed premises.
 2. A winery licensee may offer complimentary samples of wine produced on the licensed premises provided that the size of each sample does not exceed two (2) fluid ounces per customer.
 3. A winery licensee may obtain and utilize special event permits issued by the state tax commissioner.

(8) *Hotel.*

- a. A hotel license shall be for the on-sale of liquor in a hotel in the city containing one hundred (100) or more rooms. A hotel license does not permit off-sale of alcoholic beverages, except to registered guests thereof.
 1. The one hundred (100) rooms requirement may be attained when two (2) or more separate buildings, each constituting a hotel, are located on one (1) parcel of real property described in one (1) legal description, or on separate parcels of real property which are immediately adjacent and contiguous to each other and where said parcels are owned by the same individual or organizational licensee pursuant to section 5-18, and the total number of rooms in the separate buildings does, in fact, accumulatively meet or exceed the minimum one-hundred-room requirement for issuance of a license under this section; if a license is attained under either of the latter exceptions, the license shall authorize the carrying on of activity pursuant to its authority only with regard to licensed premises at one (1) particular location in one (1) particular building.
- b. Fee. The fee for a hotel license shall be two thousand five hundred dollars (\$2,500.00) per year.
- c. Restrictions.
 1. A hotel licensee is not permitted to sell beer and/or wine without obtaining a separate license for six hundred twenty-five dollars (\$625.00).

(9) *Motel.*

- a. A motel license shall be for the on-sale of liquor in a motel in the city containing no less than fifty (50) units, and containing an operating restaurant as an integral part thereof which is larger in area than any part (or those parts cumulatively, if there is more than one (1) part) of the motel used solely for the consumption of alcoholic beverages, and which restaurant operates at least as many hours per day as does the alcoholic beverage service of the motel. A motel license does not permit off-sale of alcoholic beverages, except to registered guests thereof.
- b. Fee. The fee for a motel license shall be two thousand five hundred dollars (\$2,500.00) per year.

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c. Restrictions.

1. A motel licensee is not permitted to sell beer and/or wine without obtaining a separate license for six hundred twenty-five dollars (\$625.00).

(10) *Fraternal order or club.*

a. Fraternal order or club retail beer license.

1. A fraternal order or club retail beer license shall be for the on-sale of beer at any nationally organized and recognized fraternal order or club that was in existence at the time of the adoption of the North Dakota Liquor Control Act.
2. Fee. The fee for a fraternal order or club retail beer license shall be five hundred dollars (\$500.00) per year.
3. Restrictions.
 - i. A fraternal order or club licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
4. Limitations on licenses. There is no limitation on the number of fraternal order or club retail beer licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail beer licenses permitted under subsection (1)d.

b. Fraternal order or club retail liquor license.

1. A fraternal order or club retail liquor license shall be for the on-sale of liquor at a nationally organized and recognized fraternal order or club that was in existence at the time of the adoption of the North Dakota Liquor Control Act.
2. Fee. The fee for a fraternal order or club retail liquor license shall be two thousand dollars (\$2,000.00) per year.
3. Restrictions.
 - i. A fraternal order or club retail liquor licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 - ii. A fraternal order or club retail liquor licensee shall not sell beer without obtaining a fraternal order or club retail beer license.
4. Limitations on licenses. There is no limitation on the number of fraternal order or club retail liquor licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail liquor licenses permitted under subsection (2)e.

(11) *Serviceman's or veteran's organization.*

a. Serviceman's or veteran's organization retail beer license.

1. A serviceman's or veteran's organization retail beer license shall be for the on-sale of beer at a nationally organized and recognized serviceman's or veteran's organization which is under the control and supervision of a national organization and officers.
2. Fee. The fee for a serviceman's or veteran's organization retail beer license shall be five hundred dollars (\$500.00) per year.
3. Restrictions.
 - i. A serviceman's or veteran's organization licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.

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4. Limitations on licenses. There is no limitation on the number of serviceman's or veteran's organization retail beer licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail beer licenses permitted under subsection (1)d.
 - b. Serviceman's or veteran's organization retail liquor license.
 1. A serviceman's or veteran's organization retail liquor license shall be for the on-sale of liquor at a nationally organized and recognized serviceman's or veteran's organization which is under the control and supervision of a national organization and officers.
 2. Fee. The fee for a serviceman's or veteran's organization retail liquor license shall be two thousand dollars (\$2,000.00) per year.
 3. Restrictions.
 - i. A serviceman's or veteran's organization retail liquor licensee shall not sell any alcoholic beverage for off-sale purposes, except as allowed pursuant to section 5-40 of this Code.
 - ii. A serviceman's or veteran's organization retail liquor licensee shall not sell beer without obtaining a serviceman's or veteran's organization retail beer license.
 4. Limitations on licenses. There is no limitation on the number of serviceman's or veteran's organization retail liquor licenses to be issued, nor should a license issued under this subsection go toward the number of permitted retail liquor licenses permitted under subsection (2)e.

(12) *MAYSA.*

- a. The MAYSA license is a restricted license to any person or corporation authorized by the Minot Park District board of commissioners for the sale of beer and/or wine at the MAYSA Arena.
- b. Fee. The fee for the MAYSA license is nine hundred forty-seven dollars and fifty cents (\$947.50) per year.
- c. Restrictions.
 1. The MAYSA license is not transferrable, and, in the event the operator shall cease to do business, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent operator of the MAYSA Arena.
 2. The sale and consumption of beer and/or wine shall be limited to a room at the MAYSA Arena designated by the Minot Park District board of commissioners and MAYSA Arena management.
 3. The Minot Park District board of commissioners, by special permission, may allow the sale and consumption of beer and/or wine in the confines of the facility.
 4. No beer and/or wine products shall be advertised on the licensed premises by means of an exterior display or sign or by means of an illuminated display sign.
 5. No off-sale of alcoholic beverages is permitted.

(13) *Airport terminal restaurant.*

- a. The airport terminal restaurant license is for the on-sale of liquor, beer, and wine for the operator of any restaurant located in the terminal building of the Minot International Airport.
- b. Fee. The fee for the airport terminal restaurant license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of the airport terminal restaurant license shall be allowed to serve alcoholic beverages only in the area identified as the restaurant within the Minot International Airport.

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d. Restrictions.

1. An airport terminal restaurant licensee shall operate a restaurant on the licensee's premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area.
2. The airport terminal restaurant license is not transferrable and, in the event the operator of the restaurant shall cease to do business at the Minot International Airport, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent restaurant operator who may lease the restaurant located in the terminal building of the Minot International Airport.

e. Verification of compliance requirement.

1. To verify that the licensee meets the requirement of subsection (13)d.1., an airport terminal restaurant licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (13)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.
2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.

(14) *Souris Valley Golf Course.*

- a. The Souris Valley Golf Course license is a restricted license to any person or corporation authorized by the Minot Park District board of commissioners for the sale of beer and/or wine at the Souris Valley Golf Course.
- b. Fee. The fee for the Souris Valley Golf Course license is nine hundred forty-seven dollars and fifty cents (\$947.50) per year.
- c. Restrictions.
 1. The Souris Valley Golf Course license is not transferrable, and, in the event the operator shall cease to do business, any license issued under this section shall promptly terminate and the license shall revert to the city as an unissued license to be held by the city and available for any subsequent operator of the Souris Valley Golf Course.
 2. The sale and consumption of beer and/or wine shall be limited to the main floor and porch of the structure on Souris Valley Golf Course generally known as the "Men's and Women's Clubhouse," the "Pro Shop," and/or the "19th Hole."
 3. The Minot Park District board of commissioners, by special permission, may allow the sale and consumption of beer and/or wine elsewhere on the golf course under such terms and conditions as they establish in the grant of permission.
 4. No beer and/or wine products shall be advertised on the licensed premises by means of an exterior display or sign or by means of an illuminated display sign.
 5. No off-sale of alcoholic beverages is permitted.

(15) *North Dakota National Guard.*

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- a. The North Dakota National Guard license is a special license for the sale and consumption of alcoholic beverages for only five (5) hours per month, with the hours to be specifically determined in advance by the local commander of the National Guard, at the armory ("licensed premises"), which is permanently leased to the North Dakota National Guard.
 - b. Fee. The fee for the North Dakota National Guard license is twenty-five dollars (\$25.00) per year.
 - c. Restrictions.
 - 1. Only members of the North Dakota National Guard, members of their immediate family, and guests invited by members of the North Dakota National Guard shall be permitted to purchase and consume alcoholic beverages upon the licensed premises.
 - 2. No alcoholic beverages may be sold off-base.
 - 3. The licensee shall observe all restrictions binding upon other licensees such as, for example, the restrictions with respect to closing hours, the delivery of alcoholic beverages to persons under twenty-one (21) years of age and the entry of persons under twenty-one (21) years of age upon licensed premises.

(16) *Private golf course.*

- a. The private golf course license shall be for the on-sale of liquor, beer, and wine by an operator of the food and beverage concession at a private golf course.
- b. Fee. The fee for a private golf course license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of a private golf course license shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee's licensed premises. This shall not include the parking lot or the golf course itself, except as permitted in subsection (16)c.1.
 - 1. The private golf course licensed premises shall extend to allow service of alcoholic beverages on the golf course itself from one (1) location or one (1) mobile cart for a nine-hole golf course or from two (2) locations or two (2) mobile carts for an eighteen-hole golf course. No additional license is required for the sale of alcoholic beverages from a location or cart permitted under this provision.
- d. Restrictions.
 - 1. A private golf course licensee shall operate a restaurant on the licensee's licensed premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 - 2. The private golf course license is not transferrable and may be held only by the operator of the private golf course concession and shall terminate with the termination of the contract or lease of the concession;
 - 3. A private golf course licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40(2) by way of a temporary permit;
 - 4. A private golf course licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the private golf course, other than the specific locations or carts on the golf course pursuant to subsection (16)c.1.;
 - 5. A private golf course licensee shall not sell the same alcoholic beverage or unit or measure of alcoholic beverage at differing prices during the course of any one (1) day; and

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6. A private golf course licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away.
 - e. Verification of compliance requirement.
 1. To verify that the licensee meets the requirement of subsection (16)d.1., a private golf course licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (16)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent 12-month period prior to renewal.
 2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
 - f. Limitation on number of licenses. There shall be no restriction on the number of private golf course licenses.

(17) *Minot State University (MSU).*

- a. The MSU license shall be for the on-sale of liquor, beer, and wine by the person or entity holding a concessions contract at MSU.
- b. Fee. The fee for the MSU license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of the MSU license shall be allowed to serve alcoholic beverages only in areas which are specifically identified as the licensee's licensed premises. Those areas shall be limited to Herb Parker Stadium and the MSU Dome. One (1) license shall cover both locations described in the previous sentence.
- d. Restrictions.
 1. The MSU license is not transferrable and may be held only by the operator of the MSU concession and shall terminate with the termination of the contract or lease of the concession;
 2. An MSU licensee shall limit the sale and consumption of alcoholic beverages on the licensed premises to events authorized by MSU's president;
 3. An MSU licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises;
 4. An MSU licensee shall not sell alcoholic beverages after the completion of any event being held at either the Herb Parker Stadium or MSU Dome;
 5. An MSU licensee shall ensure that alcoholic beverages are sold and dispensed by a person legally employed by the licensee or an authorized agent of the licensee; and
 6. An MSU licensee shall provide, upon request from the city council, special measures which have been or will be implemented, generally or for a particular event, to control or restrict the consumption of alcoholic beverages.
- e. Limitation on number of licenses. The city council may issue one (1) MSU license.

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(18) *Movie theater.*

- a. The movie theater license shall be for the on-sale of liquor, beer, and wine by the licensee at a movie theater.
- b. Fee. The fee for a movie theater license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- c. Premises. A recipient of a movie theater license shall be allowed to serve alcoholic beverages in areas which are specifically identified as the licensee's licensed premises and as permitted by the State of North Dakota retail alcoholic beverage license. The licensed premises for a movie theater license shall include a designated alcohol service area.
- d. Restrictions.
 1. A movie theater licensee shall operate a restaurant on the licensee's licensed premises and shall have, on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages which are consumed on the licensed premises;
 2. A movie theater licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed pursuant to Section 5-02-13, N.D.C.C. and section 5-40 by way of a temporary permit;
 3. A movie theater licensee shall not create or maintain a distinctive portion of the licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by the patrons of the movie theater;
 4. A movie theater licensee shall not give away an alcoholic beverage if as a precondition to such gift it is necessary for the donee or any other person to purchase an alcoholic beverage other than the one (1) being given away;
 5. The purpose of a movie theater license is to allow for the sale of alcoholic beverages as an adjunct to the operation of the movie theater and not that of operating a full-time liquor establishment. The purchase of a movie theater admission ticket is required for the purchase of an alcoholic beverage;
 6. A movie theater licensee shall not serve or deliver more than one (1) alcoholic beverage to a customer at one (1) time; and
 7. A movie theater licensee shall only sell or allow consumption of alcoholic beverages on the licensed premises in compliance with section 5-8 and shall be additionally limited as set forth herein:
 - i. A movie theater licensee may not sell alcoholic beverages more than ninety (90) minutes prior to a scheduled movie screening and must immediately cease selling alcoholic beverages at the conclusion of the last movie screening and remove all attendees from the licensed premises.
- e. Verification of compliance requirement.
 1. To verify that the licensee meets the requirement of subsection (18)d.1., a movie theater licensee shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's food sales and alcoholic beverage sales for the previous year meet the requirements of subsection (18)d.1. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal.

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2. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary.
 3. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
- f. Limitation on number of licenses. There shall be no restriction on the number of movie theater licenses.

(20) Off-Sale alcoholic beverages license.

- a. The Minot City Council may issue an unlimited number of off-sale beverage licenses to permit the sale of alcoholic beverages off-sale.
1. A license holder possessing such a license may, in addition to off-sales of liquor, wine, and beer, be permitted to provide their customers, free of charge, samples of alcoholic beverages as a promotion for the sale of the same so long as each sample does not exceed one (1) ounce in volume per customer.

(Ord. No. 5372, § 1; Ord. No. 5525, § 2)

Sec. 5-17. Additional requirements for restaurants serving individuals under twenty-one.

- (a) If any licensee's premises includes a restaurant and the licensee allows persons under twenty-one (21) to enter the licensed premises, the licensee must comply with the following restrictions:
- (1) The restaurant shall be separated from the designated area in which alcoholic beverages are opened or mixed; and
 - (2) Gross sales of food shall be at least equal to gross sales of alcoholic beverages which are consumed in the dining area. To verify this provision, a licensee operating a restaurant in which individuals under twenty-one (21) years of age remain, shall file with the application for license renewal a statement by a certified public accountant indicating that he or she has examined and tested the books and records of the licensee and that the licensee's previous year's gross sales from the sale of food are equal to or exceed the gross sales from the sale of alcoholic beverages in the dining room. At the option of the licensee, in lieu of a certified public accountant's statement, licensee may furnish to the city clerk a certified copy of the licensee's sales tax returns for the most recent twelve-month period prior to renewal. The city council may, in its discretion, require the licensee to provide such additional proof of the licensee's compliance with this section as the city council deems necessary. The city council may also, in its discretion, conduct an independent investigation of the sales ratio of food to alcoholic beverages and for such purpose, the licensee agrees to allow inspection of its business records.
- (b) In the event that any licensee for a licensed premises which includes a restaurant does not comply with the restrictions in subsection (a), the licensee shall suspend persons under the age of twenty-one (21) from entering the establishment.

(Ord. No. 5372, § 1; Ord. No. 5638, § 4)

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Sec. 5-18. Application.

No license may be issued under this chapter unless the applicant files a sworn application, accompanied by the required annual fee, showing the following qualifications and providing the following information:

- (1) ~~The type of license being applied for.~~
- (2) ~~The street address and legal description of the premises sought to be licensed accompanied by a clear and understandable floor plan of the premises to be licensed.~~
- (3) ~~The applicant, other than an organization, must be a legal resident of the United States and be a person of good moral character.~~
- (4) ~~If the applicant is:~~
 - a. ~~A corporation, then:~~
 1. ~~The manager of the licensed premises and the officer and directors must be legal residents of the United States and persons of good moral character; and~~
 2. ~~The shareholders:~~
 - i. ~~Who are individuals, must be legal residents of the United States and of good moral character; and~~
 - ii. ~~Which are organizations, must meet the requirements of this section for applicants that are organizations.~~
 - iii. ~~Corporate applicants must first be properly registered with the secretary of state.~~
 - b. ~~A limited liability company, then:~~
 1. ~~The manager of the licensed premises and the managers and governors must be legal residents of the United States and of good moral character.~~
 2. ~~The members:~~
 - i. ~~Who are individuals, must be legal residents of the United States and of good moral character; and~~
 - ii. ~~Which are organizations must meet the requirements of this section for applicants that are organizations.~~
 - iii. ~~The applicant must first be properly registered with the secretary of state.~~
 - c. ~~A limited partnership, then:~~
 1. ~~The manager of the licensed premises must be a legal resident of the United States and of good moral character.~~
 2. ~~The general partners and limited partners:~~
 - i. ~~Who are individuals, must be legal residents of the United States and of good moral character; and~~
 - ii. ~~Which are organizations, must meet the requirements of this section for applicants that are organizations.~~
 - iii. ~~The applicant must first be properly registered with the secretary of state.~~
 - d. ~~A general partnership, then:~~

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~~1. The manager of the licensed premises must be a legal resident of the United States and of good moral character.~~

~~2. The partners:~~

~~i. Who are individuals, must be legal residents of the United States and of good moral character; and~~

~~ii. Which are organizations, must meet the requirements of this section for applicants that are organizations.~~

~~e. A limited liability partnership, then:~~

~~1. The manager of the licensed premises must be a legal resident of the United States and of good moral character.~~

~~2. The general partners and limited partners:~~

~~i. Who are individuals, must be legal residents of the United States and of good moral character; and~~

~~ii. Which are organizations, must meet the requirements of this section for applicants that are organizations.~~

~~iii. Limited liability partnership applicants must first be properly registered with the secretary of state.~~

~~(5) Any agreements or understandings to obtain an alcoholic beverage license for any other person, partnership, or corporation must be indicated on the application.~~

~~(6) Any other interest that the applicant may have, either directly or indirectly, in any other liquor establishment in or out of the state must be indicated upon the sworn application.~~

~~(7) If applicant is buying an existing business, application must include a copy of purchase agreement.~~

~~(8) If applicant is leasing an existing business, application must include a copy of lease agreement.~~

~~(9) The city may require the applicant to set forth such other information in the application as necessary to enable it to determine if a license should be granted.~~

~~(10) Applicants shall not be delinquent in payments of lodging taxes under Chapter 28½ of the Minot Municipal Code. Applicants shall provide documentation evidencing that all lodging taxes owed are current.~~

~~(Ord. No. 5372, § 1)~~

~~Sec. 5-18.1. Disqualifying circumstances.~~

~~The circumstances described hereafter disqualify an applicant for a license under this chapter:~~

~~(1) The applicant or manager must not have been convicted of an offense determined by the attorney general to have a direct bearing upon an applicant's or manager's ability to serve the public as an alcoholic beverage retailer; or, following conviction of any offense, is determined not to be sufficiently rehabilitated under Section 12-1-33-02.1, N.D.C.C.~~

~~(2) The applicant may not have any financial interest in any wholesale alcoholic beverage business.~~

~~(Ord. No. 5372, § 1)~~

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Sec. 5-19. Reserved.

Sec. 5-20. Only licensee to operate under license.

The authority conveyed by a license issued under this chapter extends only to the named licensee and not to the lease or assignee or transferee of the licensee, except as provided in section 5-31 pertaining to transfers.

(Ord. No. 5372, § 1)

Sec. 5-21. Premises ineligible for license.

No license required by this article shall be granted for any premises within two hundred (200) feet of a building occupied exclusively as a school, church, synagogue, or other place of worship; the measurement to be taken in a straight line from the center of the nearest entrance to the building used for such school, church, synagogue, or other place of worship to the center of the nearest entrance of the premises to be licensed. This section shall not apply when the retailer is a club or lodge having a membership of two hundred (200) members or more and was in existence on or before November 3, 1936. This section shall not apply if the licensed premises preexisted the school, church, synagogue, or other place of worship.

(Ord. No. 5372, § 1)

Sec. 5-22. Reserved.

Sec. 5-23. License term.

- (a) The term of a license issued pursuant to this article shall commence at 12:00 a.m. of July 1, 2019, if the license is a renewal license, or at the date and time of its issuance after July 1, 2019, if the license is an initial license, and shall expire 11:59 p.m. on December 31, 2020.
 - (1) Because the license fees described in section 5-17 are for a one-year period, the annual license fee plus one-half ($\frac{1}{2}$) of an annual license fee shall be required for the term described in subsection (a).
 - (2) The annual fee for an initial license may be pro-rated monthly if the initial license is issued for a term less than the term described in subsection (a).
 - (3) No refund will be given if a license is not used for the entire license term.
- (b) Beginning at 12:00 a.m. on January 1, 2021, the term of a license shall commence at 12:00 a.m. on January 1, if the license is a renewal license, or at the date and time of its issuance if the license is an initial license, and shall expire at 11:59 p.m. of the following thirty-first of December. Notwithstanding the fact that an initial license may be issued for a term of less than one (1) year, the license fee shall not be reduced or pro-rated. No refund will be given if a license is not used for the entire license term.

(Ord. No. 5372, § 1)

Sec. 5-24. Refund or fee upon denial; exception.

If the application for a license provided for in this article is denied, the city clerk shall return to the applicant the amount deposited by the applicant, unless otherwise indicated under this article.

(Ord. No. 5372, § 1)

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Sec. 5-25. License application process. City clerk to submit application to the city council; approval.

(a) ~~(a)~~—All license applications shall be submitted to the city clerk by November 1 for license renewals, and for new licenses at least 60 days before the council meeting where their license issuance will be considered.

(b) New license applications:

1. ~~The city clerk shall submit the application for a new license or the application for the renewal of an existing license~~ to the city council for its consideration within forty-five (45) days of receipt of all application materials required under section 5-18, including but not limited to the annual license fee.

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2. ~~(b)~~—Every new application for a license required by this article shall be approved by the city council before the license ~~shall be~~ is issued.

(c) Renewal applications:

1. The city clerk shall submit the application for a renewal license to the chief of police for their consideration within forty-five (45) days of receipt of all application materials required under section 5-18, including but not limited to the renewal license fee and any outstanding fines.

2. The chief of police shall review all renewal applications, and forward applications concerning licenses that have been subjected to disciplinary action over the past license term to the city council for its consideration. For purposes of this section, disciplinary action includes any fines, suspensions, or revocations.

3. The chief of police shall review renewal of existing licenses that have not been suspended or fined for a violation of subsection 5-12 (a) or (c) during the preceding license term, and shall approve renewal of the license so long as the licensee is current on all application fees and fines, has submitted all application materials, and is in compliance with state law and these ordinances. The chief of police shall make a renewal decision within forty-five (45) days of the city clerk receiving the renewal application and all of the materials required under 5-18, including but not limited to the annual license fee. If the chief of police fails to make a renewal decision within the timeframe specified in this paragraph, the city clerk shall place the application on the next city council agenda for its consideration.

2.4. Any person deeming themselves aggrieved by a decision by the chief of police with respect to their application for a license renewal under this section may appeal that decision to the city council. The appeal to the city council shall be initiated by the filing written notice of the appeal with the city clerk, stating the grounds upon which the appeal is based. The hearing on the appeal will be held no later than thirty (30) business days following the filing of the same unless the applicant shall consent to a hearing on the appeal at a later date. The determination made by the council shall be the final stage of administrative review in this matter. The applicant, if still aggrieved, may resort to his judicial remedies without further administrative review.

(Ord. No. 5372, § 1)

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Sec. 5-26. Investigation of applicant.

The chief of police shall investigate the truthfulness of the information provided and the truthfulness of the representations of fact made in the application submitted pursuant to section 5-18.

(Ord. No. 5372, § 1)

Sec. 5-27. Premises requirements.

- (a) No license shall be issued unless the premises to be licensed conforms to all applicable sanitary, safety and health requirements as certified by the appropriate public officials.
- (b) Licensed premises [for retail liquor, beer, and wine licenses](#) which extend out-of-doors must meet the following requirements in respect to the portion located out-of-doors (hereafter called the "outdoors"):
 - (1) The outdoors must be contiguous with the rest of the licensed premises (hereafter called the "indoors").
 - (2) The periphery of the outdoors - to the extent not adjoining the indoors - must be enclosed with a wall or fence that is at least thirty-six (36) inches in height and said wall or fence may include a gate that can be used for entering or exiting the outdoors.
- (c) The requirements of subsection (b) shall not apply to licensees holding an outdoor dining license [or a license not listed in subsection 5-27 \(b\)](#), however, permit holders shall meet all requirements provided under chapter 28, article VII, division 2 of this Code.

(Ord. No. 5372, § 1; Ord. No. 5740, § 2)

Sec. 5-28. Inspection of licensed premises.

- (a) Prior to acting upon any application received for a liquor or beer license, a transfer of location of any such existing license, or an application for a renewal of any existing liquor or beer license, it shall be the policy of the city council to require a complete inspection of the building or plans, when new construction, where the proposed business is to be conducted, or is being conducted, whichever is applicable.
- (b) As applications for a transfer of location of an existing beer or liquor license, or application for a new liquor or beer license, or application for renewal of existing liquor or beer licenses are received at the office of the city clerk, such application shall be immediately referred to the building official and fire marshal as to the proposed site location and structure thereon, where a structure exists upon the site, who shall then fully and completely examine the proposed structure on the stated location. The building official and fire marshal shall, in their discretion, require such other city inspectors as he deems necessary to join with him in the examination of the structures described in the application, to determine the general condition of the structure upon such site, including the soundness of the building, the availability of light, air, general sanitation facilities and such other items as are normally considered in determining general safety of a structure.
- (c) Upon completion of his report, the building official and fire marshal shall make a written report to the city council, including in such report any reports prepared by other city inspectors at the request of the building inspector, and in such written report he shall state all findings as to the general condition of the structure on the proposed site with regard to light, air, structural soundness, general sanitation and other items as may be required in the opinion of the building official.

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- (d) The building official and fire marshal shall attach to the written report his opinion as to the sufficiency of the structure for the purpose sought to be carried on therein, and his recommendation as to whether or not in his opinion the structure is suitable for the carrying on of a business involving a dispensing of alcoholic beverages.
 - (e) Upon the receipt by the city council of those reports which by way of ordinance or resolution are required to be submitted to it as part of the application process for a retail alcoholic beverage license the city council shall determine whether the license shall issue or not. In so doing it shall consider the reports and it may consider (i) statements made before it at the council meeting wherein the matter is taken up, (ii) any other information publicly presented to it at the meeting by the city staff, or by aldermen, or by any other person, and (iii) such other matters of which a court could take judicial notice. The applicant shall have the right to make an argument or plea to the council, or both, and he shall have the additional right to comment upon the matters presented to the council and those matters which the council indicates it will take notice of. In reaching its decision as to whether the license should issue the council reserves the right to consider whether the design, physical condition, and location of the proposed premises, and the proposed method of operation by the licensee, are consistent with the health, safety, general welfare, morals, comfort, good order, and peace and quiet of the general public or of those persons who work, live, transact business or participate in recreation in the vicinity of the premises sought to be licensed.
 - (f) No license shall be issued or transferred by the city council, including any renewal licenses, for any establishment utilized for the sale of alcoholic beverages unless the building in which the business is carried on has been inspected in accordance with the terms of this section.
 - (g) The licensed premises and the records of the licensee shall be available to the police department for immediate inspection whenever the licensed premises are open for public patronage and the licensed premises shall be available to the police department for immediate inspection at any other time when there are persons on the licensed premises.

(Ord. No. 5372, § 1)

Sec. 5-29. Issuance when approved.

If the application for a license by this article is approved by the city council, the city clerk shall issue to the applicant a receipt showing the date and amount paid and by whom and for what location, and what class of license has been granted him, which shall constitute the license.

(Ord. No. 5372, § 1)

Sec. 5-30. Identification number.

Each license issued pursuant to this article must be given an identification number and a permanent record thereof must be kept by the city clerk, showing the name and address of the licensee and the legal description of the place licensed.

(Ord. No. 5372, § 1)

Sec. 5-31. License to constitute a defeasible property right, transfer or other change in status, operation, or form of license, fee for approval of same.

- (a) A licensee under this chapter shall enjoy a defeasible property right in the license. It is defeasible in the sense that it may be revoked by the city "for cause" without compensation to the licensee as provided in section 5-

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32 of this Code. Subject to that reservation of rights in the city, the licensee may sell, pledge, grant or retain a security interest in, give away in a will, or otherwise deal with the license.

- (b) No transaction affecting a license, including an ownership transfer (whether full or partial), lease, grant or retention of a security interest, or other change in its status, operation, or form (hereafter a "license amendment"), is binding on the city until application for the license amendment has been filed by the licensee or other interested person with the city clerk and approved by the city council. However, as provided hereafter, the chief of police has the power to approve a license amendment for a temporary period of time, and if the chief does so it has the same force and effect as an approval by the city council during such temporary period of time.
- (c) The license amendment application shall include the information required in section 5-18 and a detailed description of any consideration received in exchange for the license ownership transfer.
- (d) Before being submitted to the city council for its decision thereon, a license amendment application shall be forwarded to the chief of police for such investigation and such recommendation to the council concerning its merits as the chief believes is warranted or advisable under the circumstances. Moreover, if the license amendment application relates to the physical characteristics of the licensed premises it shall likewise be forwarded to the building official for the same purpose.
- (e) The chief of police shall have the authority to approve a license amendment application for a period of time not to exceed forty (40) consecutive days upon a showing satisfactory to the chief of pressing circumstances requiring action before the city council can take under consideration and act upon a license amendment application in the ordinary course of its business, as when, for example, a licensee dies or a secured party or lien holder forecloses on its security interest in a license. However, the chief or the council itself may revoke or suspend provisional approval given under this subsection, provided that reasonable notice of such contemplated action is first provided to the affected party or parties.
- (f) In the absence of provisional or final approval of an ownership transfer as provided for in subsections (b) and (e), no person other than the named licensee may rely on the grant of the license as a defense to prosecution or a civil action brought under this chapter or otherwise provided in law for an offense or cause of action involving the sale of alcoholic beverages without a license.
- (g) No license amendment application may be acted upon until the applicant has paid a non-refundable application-review fee of two hundred fifty dollars (\$250.00).

(Ord. No. 5372, § 1)

Sec. 5-32. Suspension or revocation of a license.

- (a) The city council shall have the power to suspend or revoke any license issued under the authority of this chapter for any of the following reasons:
 - (1) The licensee violates the laws of this state or of any of the provisions of this chapter.
 - (2) The licensee willfully makes a false statement or a misrepresentation as to a material fact in the application for the issuance, ~~or ownership~~ transfer, or change in location of the licensed premises.
 - (3) The licensee knowingly permits the occurrence of a pattern or practice of disorderly or immoral acts upon the licensed premises.
 - (4) The licensee does not conduct the activity for which the license was issued at the licensed premises for a period of twelve (12) consecutive months.
 - (5) The licensee or its manager or both no longer meet the requirements of section 5-18 for the issuance of the license.

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(6) The licensee does not hold a necessary permit or license issued by another governmental entity, which license or permit is required by that governmental entity as a precondition to the carrying on by the licensee of the activity authorized by the City of Minot license.

- (b) No license shall be suspended or revoked without providing the licensee with notice and an opportunity for hearing before the city council with regard to the suspension or revocation of the license. The city clerk shall provide the licensee with written notice of the date, time, and place of the hearing. The notice shall inform the licensee that its license may be suspended or revoked and it shall set forth the factual allegations which form the basis for doing so under this section. The city clerk may provide notice by mailing a copy thereof to the licensee's last known address as indicated in the licensee's most recent application filed with the clerk under this chapter. The notice must be mailed at least five (5) days prior to the hearing, exclusive of the date of mailing and date of the hearing.
- (c) If the licensee does not appear at the hearing provided for in subsection (b), or if he does not dispute them, the factual allegations in the complaint shall be deemed to be admitted. Otherwise the city shall have the burden of going forward with the evidence and the burden of persuasion as to any disputed issues of fact.
- (d) If the licensee requests that the originally scheduled hearing date be continued the city council shall grant a continuance to a time mutually convenient to the licensee and the city council, but the city council shall have the discretion to suspend the license from the date for which the hearing was originally scheduled to the date of the continued hearing.
- (e) The decision of the city council shall be final for purposes of the legal doctrine which requires the exhaustion of administrative remedies as a prerequisite for judicial review.
- (f) The Minot Police Department will be responsible for conducting compliance checks to determine whether the licensees are in compliance with the provisions of subsection (a)(1). If (1) the licensee admits a violation occurred, (2) fails to appear at the scheduled hearing relating to the alleged violation, or (3) the city council determines a violation under subsection (a)(1) occurred after a hearing, the licensee is subject to the following penalties, in addition to any other civil or criminal penalties a licensee may be subject to for violation of any provision of state or local law:

First violation: Letter of warning

Second violation: Business closed for three (3) consecutive days and a \$500 penalty

Third violation: Business closed for ten seven (107) consecutive days and a \$750 penalty

Fourth violation: Business closed for forty thirty (340) consecutive days and a \$1,000 penalty

Fifth violation: Business liquor license recommended to be revoked, suspended for a period of time not to exceed _____ days, or a fine of not less than \$2500 as determined by the City Council.

The penalties described above shall be for violations that occur within a period of twenty-four (24) months. The twenty-four-month time period commences to run and is calculated from the first offense by the licensee.

- (g) The Minot Police Department will be responsible for monitoring compliance with the provisions of subsections (a)(2)—(6). If (1) the licensee admits a violation occurred, (2) fails to appear at the scheduled hearing relating to the alleged violation, or (3) the city council determines a violation under subsections (a)(2)—(6) occurred after a hearing, the licensee is subject to suspension or revocation, as determined by the city council, in addition to any other civil or criminal penalties a licensee may be subject to for a violation of subsections (a)(2)—(6).

(Ord. No. 5372, § 1)

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Sec. 5-33. No refund of fee when license is revoked.

When a license issued pursuant to this article is terminated or revoked for cause, the licensee or those claiming under him, shall not be entitled to any return of any portion of the license fee previously paid to the city.

(Ord. No. 5372, § 1)

Sec. 5-34. No license to be issued until five years after revocation.

Where a license for any premises licensed pursuant to this article has been revoked, no license shall thereafter be issued to the licensee for a period of five (5) years after revocation.

(Ord. No. 5372, § 1)

Sec. 5-35. Exceptions to the limitations as to the number of licenses.

- (a) If because of a growth in the population of the city or because of the revocation or voluntary surrender of a license, or because any of the numerical limitation formulas under section 5-16 are amended, there becomes available for issuance a license under the authority of this chapter, and if it appears to the city council that it is reasonably likely that more than one (1) person might be interested in obtaining the license, given the then current market demand in the city for licenses of that type, the city shall advertise the availability of the license for a reasonable period of time and shall auction the license off openly or through sealed written bids to the highest bidder. The successful bidder must qualify under section 5-18 in order to obtain a license. The city may set a minimum auction or bid price and/or other conditions of the auction or bid which shall be stated in the advertisement. If more than one (1) license of a particular class has been available for issuance consistent with the numerical limitations under section 5-16 for a period of three (3) months without an application having been made for a license of that class, there shall arise a rebuttable presumption that the market demand for licenses of that class does not exceed the number of licenses of that class available for issuance.
- (b) A license shall authorize the carrying on of activity pursuant to its authority only with regard to licensed premises at one (1) particular location except to the extent allowed under section 5-18. However, this subsection shall not be construed as prohibiting the periodic expansion and contraction of licensed premises at a particular location as the occasion demands, such as when, for example, a motel licensee dispenses alcoholic beverages at a public assembly room within the motel during a convention or other special activity, when otherwise such room is not ordinarily used for the service or consumption of alcoholic beverages.
- (c) When the city annexes territory which contains an establishment which was licensed by the county to sell alcoholic beverages at retail immediately prior to the annexation, the city will issue to its owner a city license to sell alcoholic beverages, without regard to subsection (a) and even though one (1) of the numerical limitations on licensed imposed by section 5-16 is exceeded, or a prior condition or excess licenses under that section is aggravated as a result of the issuance of the license under this section. Unless the city council lays down a special rule at the time of annexation whereby the new city license shall carry the same restrictions and terms as the old county license, the new city license issued under this subsection shall be as similar to the prior county license as may be obtained under the then existing categories of city licenses. A license issued under this subsection shall thereafter be counted as one (1) of the licenses subject to the numerical limitation imposed by section 5-16, so that, for example, if the issuance of a license under this subsection causes one (1) of the numerical limitations imposed by section 5-16 to be exceeded, the license issued under this subsection will be counted against future population growth in determining when an additional license is available for issuance under the formula set forth in section 5-16. It is the intent to this subsection that no county licensee shall lose a license to sell alcoholic beverages simply because the licensee

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is annexed to the city, but that city licenses which have county license ancestors over a period of time shall be treated the same as all other licenses for purposes of section 5-16 numerical limitations. This subsection shall apply retroactively as well as prospectively, except that as a one-time exception it shall not be construed to bar the issuance of any additional licenses which became available under section 5-16 after January 1, 1990, and before January 1, 1992, under the ordinance then in effect.

(Ord. No. 5653, § 1)

Sec. 5-36. Reserved.

Sec. 5-37. Adequate parking.

At the time of erection, conversion or expansion of a structure to be used for a retail liquor or beer business, there shall be provided and thereafter maintained off-street parking facilities to accommodate the motor vehicles used by the occupants, customers, clientele and employees of said retail business. Such off-street parking spaces shall be used exclusively for off-street parking purposes. Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in chapter 23 of the City of Minot Zoning Ordinance, Ordinance No. 1149, as amended.

(Ord. No. 5372, § 1)

Sec. 5-38. Sale of alcoholic beverages at municipal auditorium and armory complex by licensed liquor dealers.

The holder of a current liquor or beer license of the city may sell and dispense alcoholic beverages at the municipal auditorium and armory complex of the city provided that:

- (1) Permission is granted in the same manner as provided in section 5-40(b).
- (2) The licensee accepts all responsibilities and liabilities for enforcement of City of Minot and North Dakota State Liquor laws regarding the dispensing of alcoholic beverages during the times of the special permission.
- (3) Twenty (20) per cent of the gross sales of alcoholic beverages at the auditorium/armory are paid to the city immediately upon expiration of the permit.

(Ord. No. 5372, § 1)

Sec. 5-39. Dispensing of alcoholic beverages at private party held at municipal auditorium or armory.

Any lessee of the municipal auditorium or armory may dispense alcoholic beverages, at a private party or gathering, provided that there is no charge for the alcoholic beverages, provided that all of the laws of the City of Minot and State of North Dakota regarding dispensation of alcoholic beverages are fully complied with and provided that responsibility and liability for compliance with these laws are fully assumed by the lessee.

(Ord. No. 5372, § 1)

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Sec. 5-40. Special Event pPermits; fees.

- (a) A permit issued pursuant to Section 5-02-01.1, N.D.C.C. to allow a licensee to operate at premises other than the licensed premises to which the license relates, shall be issued administratively by the city clerk upon the following terms and conditions:
- (1) The payment by the applicant of a nonrefundable fee of twenty-five dollars (\$25.00).
 - (2) The submission of an application to the city clerk, at least seven (7) days prior to the event (not including the day of the event), by the applicant, with any information required by the city clerk and a brief narrative explaining:
 - a. The nature of the occasion for the permit (e.g., wedding dance, trade show or promotion, etc.); and
 - b. The steps which will be undertaken by the permittee to restrict the sale to, and consumption of, alcoholic beverages by person under twenty-one (21) years of age at such occasion.
 - (3) The written approval by the chief of police of the issuance of the permit. The chief of police may police the event(s) covered by the special permit. The chief of police may determine the number, if any, of police officers or licensed private security officers needed to police the event(s). If the chief of police determines police officer or licensed private security officers are needed to police the event(s), the licensee shall hire the required number of off-duty police officers or licensed private security officers to police the event(s). If the licensee retains off-duty police officers to police the event(s), the written approval for the special permit shall be contingent on the licensee paying the Minot Police Department the expense of any off-duty police officer required for the proper policing of the event(s) prior to the event(s) occurrence. No special event(s) shall be permitted to proceed unless the required number of police officers or licensed private security officers are present.
 - (4) A permit issued pursuant to this subsection may not be used for the off-sale of alcoholic beverages.
 - (5) The city council may authorize an individual under twenty-one (21) years of age to attend the special event, but may not authorize the consumption or possession of an alcoholic beverage by an individual under twenty-one (21) years of age.

Each month the chief of police shall submit a report to the city council concerning the permits allowed and the permits denied under this subsection subsequent to the last prior such report. Applications, whether granted or not, shall be retained by the city clerk for no less than three (3) years.

(Ord. No. 5372, § 1; Ord. No. 5427, § 2; Ord. No. 5638, § 5)

Sec. 5-41. Reserved.**Sec. 5-42. Sale of beer in kegs; records and marking required.**

- (a) A retail licensee selling beer in a container having a liquid capacity greater than two (2) gallons shall place a distinctive symbol, notation or mark on the container which uniquely identifies him, and, moreover, shall mark such container in such a manner, and maintain such business records, that in the event the container is returned to him he can establish the following information with respect to his most recent sale involving the container within the last six (6) months, to-wit: The date of the sale and the name, address, driver's license and social security number of the person to whom it was sold.

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- (b) Each retail licensee shall register his unique identification symbol, notation or mark with the chief of police and shall provide the chief of police with such information gathered pursuant to subsection (a) as the chief from time to time may require.
 - (c) This section shall not apply to the sale of containers by a retail licensee if he intends and requires that the contents of the container will be consumed on the licensed premises where the sale occurs.

(Ord. No. 5372, § 1)

Sec. 5-43. Nudity, seminudity and sexually explicit acts prohibited.

- (a) No person who is within or upon premises which are licensed under this chapter shall knowingly omit to cover securely with an opaque covering the following portions of his or her anatomy:
 - (1) The nipples;
 - (2) The pubes;
 - (3) The cleavage between the buttocks; and
 - (4) The genitals.

However, item (1) above, pertaining to the nipples, shall apply to females only.

- (b) No person while upon or within premises licensed under this chapter shall perform or simulate acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or shall perform or simulate the touching, caressing or fondling of breasts, buttocks, anus or genitals.
- (c) Premises licensed under this chapter for the purposes of this section shall include any area or room under control of the licensee, or as to which he has the lawful right to assert control, whether control is exercised or not:
 - (1) In which or in any portion of which alcoholic beverages are stored, mixed, prepared, opened, served or consumed as an incident of the business operation of the licensee carried on pursuant to the license; or
 - (2) The interior of which is visible from an area or room described in subparagraph (1) but only while its interior is so visible.

(Ord. No. 5372, § 1)