



Alcohol Ordinance Review and Rewrite Committee Meeting

Monday, April 14, 2025, at 2:00 PM

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 - NOVEMBER 12, 2024

It is recommended the committee approve the minutes of the November 12, 2024 Alcohol Ordinance Review and Rewrite Committee meeting.

3. NEW BUSINESS

3.1. STAFF RECOMMENDED DRAFT OF THE CHAPTER 5 ALCOHOL ORDINANCE

The committee can discuss the staff's recommended draft of the Chapter 5 Alcohol Ordinance.

4. UPCOMING INFORMATION

5. ADJOURNMENT

November 12, 2024 Alcohol Ordinance Review and Rewrite Committee

Alcohol Ordinance Review and Rewrite Committee – November 24, 2024 AT 10:00 A.M.

Members Present:

Jon Hanson, Chairman Paul Pitner, Mayor Tom Ross, Brett Tinnes

Members Absent:

Kevin Black

Also Present:

Mikayla McWilliams (City Clerk), Harold Stewart (City Manager), Captain Dale Plessas (Acting Police Chief), Stefanie Stalheim (City Attorney), and Brian Billingsley (Community & Economic Development Director)

The meeting was called to order by Chairman Paul Pitner at 10:00 am.

APPROVAL OF MINUTES

Mayor Tom Ross moved the committee approve the minutes of the September 9, 2024 Alcohol Ordinance Review and Rewrite Committee meeting.

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

NEW BUSINESS

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

Katie Schmidt, attorney at Ohnstad Twichell, was present via Teams at the meeting to answer the question on if the minimum bid amount was considered in the memo she has previously written. Katie stated the City of Minot has discretion on fees. She also mentioned by putting a minimum bid requirement on the RFP does not give it a value of the \$100,000 due to it being done three years ago and there have been economic changes.

Chairman Pitner moved the committee approve a 2nd option for the City Council to include:

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.

The motion was seconded by Mayor Ross and carried the following vote: ayes: Pitner, Ross, Tinnes; nays: Hanson.

Discussion on the motion included Chairman Pitner stating this would remove the barrier of entrance into this entry by not asking for a higher initial license fee. Committee Member Black's motion included a \$100,000-\$125,000 initial licensing fee. This motion considers the current license holders to have a value of \$125,000 with the payment of the \$25,000 and the waiver of fees for a 20-year period at \$5,000/year.

Committee Member Hanson mentioned how this is a heavily regulated business and that is why a high barrier of entry might need to be in place. There are owners near retirement, which might not get to utilize the full 20-year grace period. Mayor Ross mentioned this is why the transferability of this proposal with the waiver credit might be enticing. Chairman Pitner responded how this proposal is pro-business, growth, and development. He also stated this proposal does not perpetuate the discussion further down the road on the value of the licenses, how it removes the cap that has possible value, and is an amicable resolution to the situation. It was clarified that this proposal will be presented as a 2nd option to the committee at final review of the ordinance changes and possibly to the City Council.

The committee then moved on to license types. The City Clerk discussed the options of combining such licenses as the Private Golf Course license with the Souris Valley Golf Course license, along with the idea of combining some of the other licenses to simplify the list.

Mayor Ross moved the committee direct staff to bring back a consolidated list of license types and include a distillery license option. The motion was seconded by Brett Tinnes and carried the following vote: ayes: Pitner, Ross, Tinnes; nays: Hanson.

Next, the committee was to look at licensing fees. The current structure of fees is to only have an annual fee, but there might be a benefit in adding applications fees, comparing fee types and fees to other cities, transfer fees, etc. This portion of the discussion was tabled until the committee was presented with a consolidated list of license types.

NEW BUSINESS

4.1 CHAPTER FIVE ORDINANCE ON ALCOHOLIC BEVERAGES – STAFF RECOMMENDATIONS

Stefani Stalheim, City Attorney, presented her draft of recommendations to changes to Chapter 5 on Alcoholic Beverages to the City of Minot Ordinances. She discussed changing the current layout to include more articles beginning with Article 1 General Provision, which includes more definitions. Article 2 Minors, combines any part of this particular ordinance in relation to minors. Article 3 will be Licensing Types, which is the next portion of the ordinance to be worked on.

Under new business, Committee Member Hanson moved the committee add the proposal to include:

1. Keeping the cap in place for the Retail Liquor, Beer, and Wine license.
2. Create a new off-sale only license with a minimum of \$50,000 for an initial license fee and have an annual fee of \$3,125.00.
3. The committee still work on consolidation of licensing types.

The motion was seconded by Mayor Ross and carried the following vote: ayes: Hanson; nays: Pitner, Ross, Tinnes. The motion failed.

The discussion of the motion included how the current license holders who operated as a liquor store would not be required to sell this license type and move to the off-sale only license. This could potentially not resolve the issue of the capped license, or it potentially open up 8 licenses for the Retail

Liquor, Beer, and Wine license, which would remain capped. Chairman Pitner also reiterated how it is not his intention to perpetuate this issue to another City Council.

PUBLIC INPUT

- Richard Napora (Ranger Lounge) does not believe the licenses can be held hostage because they have to have the license in use per ordinance. Stefanie Stalheim mentioned the committee and staff could look at defining the use of a license in the penalties portion of the ordinance.
- Anthony Barrette (Drop Zone) believes banks have equity and value in the license. The free market has established the amount. He would also like to see the ordinance state how no council member or family member of council can apply for a license for a set amount of time for transparency reasons. Alderman Pitner believes the recent sale transactions prove the free market value. Alderman Pitner also mentioned he has contacted bank lenders on using a license for collateral and several banks will not take a license as collateral.
- Tony Mueller (Sports on Tap) would like to see more options for on and off sale licensing. He believes there should be some sort of barrier to entry into the industry, because a low entry fee could change the make-up of the community.
- Tracy Boyd (Pour Farm) agrees how government should not be in this market but she discussed the workforce issues that already exist. She also mentioned issues with the application process for renewals. The City Clerk clarified the paperwork required for this year's renewal process is the same as the previous years, but maybe the email wording on the employee list would have been better as an owner/manager list.
- Jon Lakaduk (Saul's) would like to see the committee consider an alternative venue license type, which would contemplate premises issues that arise with his business structure. He also mentioned the values could be adjusted due to inflation.
- Melissa Wright (Arny's 2.0) spoke to the committee about how Fargo has 20 licenses issued similar to the City of Minot Retail Liquor, Beer, and Wine license. Fargo still has a cap on the license at 20, while the City of Minot has a total of 31. She also believes that removing the cap on the license could result in more issues for the Minot Police Department.
- Gabriel Liam asked if the potential off-sale license would have a cap, which it would not. He also mentioned how adding that license could potentially reduce the license value for the current license holders.
- Sabrina Debmman (Ebenezer's) would like to see more verbiage on minors in the establishment or there could be issues removing the cap and consolidating the licenses. She also agrees the Minot Police Department could have potential issues opening up the cap.
- Jessica Kleen, attorney for Olson and Burns representing Marketplace Foods, wondered if the payment to the license holders contemplated in Chairman Pitner's motion would be considered in the 2025 budget or the 2026 budget. She would like the committee to consider the license fee to be increased to \$10,000 compared to the \$5,000 in the motion and it would be a 10-year waiver of fees. She mentioned she has experience with license holders and lenders using licenses as collateral (ex. 4201 d/b/a Safari Fuels 105 v. First State Bank & Trust et al). She clarified with the committee the City Council will give final direction on all recommendations.

NEXT SCHEDULED MEETING

The committee decided the next meeting would possibly work for December 16th, but staff will work with the Chairman to verify the date and time will work.

There being no further business, Jon Hanson moved the committee meeting be adjourned. Motion seconded by Mayor Ross and carried unanimously. Meeting adjourned at 11:39 am.

CHAPTER 5 ALCOHOLIC BEVERAGES

ARTICLE I. 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* 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* 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.

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- 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.
 - 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.
 - 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.
 - o. **Growler** means 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.
 - p. **Licensed premises** means the premises on which beer, liquor, or alcoholic beverages are normally sold, stored, or dispensed and is delineated 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.
 - r. **Local License** means a retail alcoholic beverage license issued by the City of Minot.
 - s. **Lodge** or *club* means 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 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.
 - t. **Location transfer** means a change in the location of the licensed premises.

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- 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.
 - 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.
 - w. **Minor** means a person that is under twenty-one years of age.
 - x. **Movie theater** means 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.
 - y. **Off-sale** means and includes the sale of alcoholic beverages in the original package, or in a Growler 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.
 - z. **On-sale** means 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.
 - 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'.

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 there is 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 "ownership transfer" shall not apply to the following described conveyances:

- i. 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.
- ii. 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.
- iii. 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 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.
- iv. 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.

- v. 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 relative as defined herein.
- dd. *Package* and *original package* 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; except that the filling of a Growler, as defined in this section, shall not constitute the breaking of a package under this definition.
- ee. *Person* means and includes persons, partnerships, unincorporated associations, and bodies corporate.
- ff. *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.
- gg. *Restaurant* 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.
- hh. *Sale* 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.
- ii. *Retail sale* shall mean a sale of alcoholic beverages for use or consumption and not for the purpose of resale.
- jj. *Sparkling wine* shall mean wine made effervescent with carbon dioxide.
- kk. *Supper club* shall mean an establishment or enterprise which primarily operates as a restaurant and holds a Supper Club License as described in Minot City Ordinance *Sec. 5-27*, which restaurant shall demonstrate that on an

annual basis, that their gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed on the licensed premises.

- ll. **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.
- mm. *Twenty-one years of age* means it is after 8:00 a.m. on the date twenty-one (21) years after a person's date of birth.
- nn. *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.
- oo. *Wine* means 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.
- pp. **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. § 5-01-17.

Sec. 5-2. 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;
 - 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 through 5-10. - Reserved.

ARTICLE II. ALCOHOL LICENSES

Division 1. Licenses – Generally.

Sec. 5-11. 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. It is unlawful for any person to engage in the sale of beer, liquor, wine, or other alcoholic beverages within the City without first obtaining a license or permit to sell alcoholic beverages 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. 5-40.**
- 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 microbrew pub, domestic winery, domestic distillery, or brewer taproom owner or operator having a license from the state tax commissioner and only being present within the city to utilize special event permits issued by the state tax commissioner under Chapter 5-01, 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.

Sec. 5-12. City Retail License Categories, Descriptions, and Requirements

a. The following city retail licenses are hereby established:

1. On and Off-Sale Liquor, Beer, and Wine
2. Legacy License – On and Off-Sale Liquor, Beer, and Wine
3. On and Off-Sale Beer and Wine
4. Supper Club Establishment License
5. Non-Profit and Governmental Organization Licenses
 - a. Minot International Airport Liquor, Beer, and Wine License
 - b. Minot Park District Facility Licenses
 - i. Souris Valley Golf Course Beer and Wine
 - ii. MAYSA Arena Beer and Wine
 - iii. Corbett Field Beer and Wine

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- c. Minot State University License
 - d. Licenses for Military, Veteran, Service Clubs, and Fraternal Orders
 - b. Retail license descriptions and specific requirements

- 1. On and Off-Sale Liquor, Beer, and Wine License

- 1. The City Council may issue an unlimited number of general on- and off-sale Liquor, Beer, and Wine Licenses. A license holder possessing a Liquor, Beer, and Wine License is permitted to sell alcoholic beverages on-sale, and may sell alcoholic beverages off-sale provided that the sale occurs upon the on-sale premises.
- 2. Samples authorized: A license holder possessing such a license may provide their customers, free of charge, samples of alcoholic beverages as a promotion for the sale of the same provided the size of the sample is no greater than two (2) fluid ounces and the total of all samples provided to a customer does not exceed eight (8) fluid ounces.

- 2. Retail Liquor – On and Off-Sale Liquor, Beer, and Wine

- 1. A retail liquor license shall be for the on-sale and/or off-sale of liquor, beer, and wine.
- 2. Fee. The fee for a retail liquor license shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.
- 3. 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.
- 4. 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 Liquor – On Sale, Off-Sale, and On and Off-Sale Liquor, Beer, and Wine

- 1. A retail liquor license shall be for the on-sale only, off-sale only, or on-sale and/or off-sale of liquor, beer, and wine.
- 2. Fees.
 - i. On-sale only license fees shall be _____ per year only;

Blue – Current language.

Gray – Black Proposal

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- ii. Applicants for a retail liquor license shall pay an initial fee of one hundred thousand dollars (\$100,000) per year. After the initial fee is paid, annual fees for retail liquor licenses shall be three thousand one hundred twenty-five dollars (\$3,125.00) per year.

3. Legacy Licenses:

- i. Legacy License holders retain a right-of-first-refusal that grants them the right to sell and transfer a retail liquor license one time to a qualified buyer.
- ii. When a Legacy License holder has decided to sell a retail liquor license, their buyer must first make application to the City of Minot for a retail liquor license. If the buyer's application is approved by the City Council, the Legacy License holder must surrender their Legacy License to the City of Minot. Upon receipt of the Legacy License, the City of Minot shall issue a Retail Liquor License to the buyer.

4. Legacy License – On and Off-Sale Liquor, Beer, and Wine

Green – Pitner
Proposal

1. Legacy License holders enjoy a defeasible property right in the license until [2:00am on January 1, 2046].
 - i. 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 5-32 of this Code. Subject to that reservation of rights In the City, the licensee may transfer, sell, pledge, grant or retain a security interest in, give away in a will, or otherwise deal in the license.
 - ii. Legacy License holders shall pay no annual license fees.
 - iii. Legacy License holder must confirm any change in address, ownership, and licensed premises with the City Clerk upon making such change by confirming the same on a form available through the City Clerk's office.
 - iv. On [2:00 am on January 1, 2046], the Legacy Licenses will automatically terminate. In order to continue to sell alcoholic beverages of any kind, the Legacy License holder must apply for and be granted a different category of city retail license before their license expires.
2. A Legacy License holder is permitted to sell alcoholic beverages on-sale, and may sell alcoholic beverages off-sale, provided that the sale occurs upon the on-sale premises.
3. Samples authorized: A license holder possessing such a license may provide their customers, free of charge, samples of alcoholic beverages as a promotion for the sale of the same provided the size of the sample

is no greater than two (2) fluid ounces and the total of all samples provided to a customer does not exceed eight (8) fluid ounces.

5. On and Off-Sale Beer and Wine License

1. The City Council may issue an unlimited number of general on- and off-sale Beer and Wine Licenses. A license holder possessing a Beer and Wine License is permitted to sell beer and wine on-sale, and may sell beer and wine off-sale provided that the sale occurs upon the on-sale premises.
2. Samples authorized: A license holder possessing such a license may provide their customers, free of charge, samples of beer and wine as a promotion for the sale of the same provided the size of the sample is no greater than two (2) fluid ounces and the total of all samples provided to a customer does not exceed eight (8) fluid ounces.

6. Supper Club License

1. The City Council may issue an unlimited number of supper club licenses to permit the sale of alcoholic beverages on-sale. Such a license may be issued only upon the following conditions:
 - i. The individual or entity seeking a supper club license must operate a restaurant, as defined in Minot City Ordinance Sec. 5-01, and such restaurant shall demonstrate on an annual basis that their gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area;
 - ii. Supper club license holders shall not sell or deliver alcoholic beverages for consumption off the licensed premises, except as allowed by state law and Minot City Ordinance 5-40 by way of a special event permit;
 - iii. Supper club license holders shall not create or maintain distinctive portions of their licensed premises where for the most part only alcoholic beverages and snack items are served to and consumed by supper club patrons;
 - iv. Supper club license holders shall not give away an alcoholic beverages 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
 - v. The hours within which sales of alcoholic beverages may be made shall coincide with the hours permitted by the State of North Dakota for the sale of alcoholic beverages and shall also coincide with the hours the supper club license holder's kitchen is in operation and food is available for purchase. A supper club license holder shall discontinue the sale of alcoholic beverages on the licensed premises within one (1) hour of closure of its kitchen.

2. Gross Sales Verification

1. Upon renewal of any Supper Club license, the applicant shall certify, under penalty of perjury, the total annual gross sales at the licensed premises and the total annual gross sales of alcoholic beverages for the most recent calendar year.
2. The city may at any time, in its discretion, require certification, under penalty of perjury, by a certified public accountant retained and paid by the license holder of the total annual gross sales at the licensed premises and the total gross sales of alcoholic beverages for the most recent calendar year.

7. Non-Profit and Governmental Organization Licenses

1. Minot International Airport (MOT) Liquor, Beer, and Wine

- i. The City Council may issue an unlimited number of on-sale liquor, beer, and wine licenses to the operators of any restaurants located in the MOT terminal building.
- ii. A MOT license holder may only serve alcoholic beverages in the area identified as the restaurant within the MOT terminal building. These licenses may be issued only upon the following terms and conditions:
 1. This license is not transferrable, and in the event the license holder shall cease to do business at MOT, the license issued pursuant to this section shall automatically terminate and revert to the city.
 2. A license holder shall operate a restaurant on the licensee's premises and have on an annual basis, gross sales of food that are at least equal to gross sales of alcoholic beverages consumed in the dining area of their premises.
- iii. **Gross Sales Verification.**
 1. Upon renewal of any MOT Liquor, Beer, and Wine license, the applicant shall certify, under penalty of perjury, the total annual gross sales at the licensed premises and the total annual gross sales of alcoholic beverages for the most recent calendar year.
 2. The city may at any time, in its discretion, require certification, under penalty of perjury, by a certified public accountant retained and paid by the license holder of the total annual gross sales at the licensed premises and the total gross sales of alcoholic beverages for the most recent calendar year.

2. Minot Park District Facility Licenses

i. Souris Valley Golf Course Beer and Wine

1. The City Council may issue one (1) on-sale beer and wine license to the person(s) or entity(ies) designated by the Minot Park District to sell beer and wine at the Souris Valley Golf Course. Such license may be issued only upon the following restrictions and conditions:
 1. This license is not transferrable, and in the event the person(s) or entity(ies) designated by the Minot Park District should cease to operate the premises or the Minot Park District revokes their designation, the license issued pursuant to this section shall terminate and revert to the city as an unissued license available for any subsequent operator of the Souris Valley Golf Course.
 2. The license shall limit the sale and consumption of beer and wine to the main floor and porch of the Souris Valley Golf Course clubhouse.
 1. The Minot Park District by special permission, may allow the sale and consumption of beer and wine elsewhere on the golf course under such terms and conditions as they establish in their grant of permission.
 3. Retail sales of beer and wine shall be restricted to the patrons of the Souris Valley Golf Course or its clubhouse facilities.
 4. No off-sale sales of alcoholic beverages are permitted under this license.

ii. MAYSA Arena Beer and Wine

1. The City Council may issue one (1) on-sale beer and wine license to the person(s) or entity(ies) designated by the Minot Park District to sell beer and wine at the MAYSA Arena. Such license may be issued only upon the following restrictions and conditions:
 1. This license is not transferrable, and, in the event the person(s) or entity(ies) designated by the Minot Park District should cease to operate the premises or the Minot Park District revokes their designation, the license issued pursuant to this section shall terminate and revert to the city as an unissued license available for any subsequent operator of the MAYSA Arena.

2. The license shall limit the sale and consumption of beer and wine to a room at the MAYSA Arena designated by the Minot Park District board of commissioners and MAYSA Arena management.

1. The Minot Park District by special permission, may allow the sale and consumption of beer and wine within the confines of the facility under such terms and conditions as they establish in their grant of permission.

3. Retail sales of beer and wine shall be restricted to the patrons of the MAYSA Arena.

4. No off-sale sales of alcoholic beverages are permitted by this license.

iii. Corbett Field Beer and Wine

1. The City Council may issue one (1) on-sale beer and wine license to the person(s) or entity(ies) designated by the Minot Park District to sell beer and wine at Corbett Field. Such license may be issued only upon the following restrictions and conditions:

1. This license is not transferrable, and, in the event the person(s) or entity(ies) designated by the Minot Park District should cease to operate the premises or the Minot Park District revokes their designation, the license issued pursuant to this section shall terminate and revert to the city as an unissued license available for any subsequent operator of Corbett Field.

2. The license shall limit the sale and consumption of beer and wine to the specified premises designated by the Minot Park District board of commissioners and MAYSA Arena management.

1. The Minot Park District by special permission, may allow the sale and consumption of beer and wine within the confines of the facility under such terms and conditions as they establish in their grant of permission.

3. Retail sales of beer and wine shall be restricted to the patrons of Corbett Field.

4. No off-sale sales of alcoholic beverages are permitted by this license.

3. Minot State University (MSU) License

- i. The City Council may issue one (1) on-sale liquor, beer, and wine license to the person(s) or entity(ies) designated by the person(s) or entity(ies) designated by Minot State University to sell alcoholic beverages at Minot State University events.
- ii. Premises. A licensee under this section shall be allowed to serve alcoholic beverages only in areas that 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.
- iii. Such license may be issued only upon the following restrictions and conditions:
 1. The MSU license is not transferrable and may be held only by the person(s) or entity(ies) designated by the person(s) or entity(ies) designated by Minot State University to sell alcoholic beverages at Minot State University events. Should that designation be revoked or terminated, the license issued pursuant to this section shall terminate and revert to the city as an unissued license available for any subsequent individual designated to sell alcoholic beverages at Minot State University events.
 2. The MSU licensee shall limit the sale and consumption of alcoholic beverages on the licensed premises to events authorized by MSU's president.
 3. Retail sales of beer and wine shall be restricted to the patrons of MSU.
 4. No off-sale sales of alcoholic beverages are permitted under this license.
 5. The MSU licensee shall not sell or deliver alcoholic beverages for consumption off the licensed premises.
 6. The MSU licensee shall not sell alcoholic beverages after the completion of any event being held at either the Herb Parker Stadium or MSU Dome.
 7. The 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;
 8. The MSU licensee shall provide upon request, special measures which have been or will be implemented, generally or for a particular event, to control or restrict the consumption of alcoholic beverages.

4. City Licenses for Military, Veteran, Service Clubs, and Fraternal Orders

- i. The City Council may issue an unlimited number of on-sale liquor, beer and wine licenses to nationally organized and recognized military, veteran, or service clubs, and fraternal orders that are under the control and supervision of a national organization and officers.
- ii. Military, Veteran, Service Club, and Fraternal Order license holders shall not sell any alcoholic beverage for off-sale purposes, except as allowed by state law and **Minot City Ordinance 5-40** by way of a special event permit.
- iii. Samples authorized: A license holder possessing such a license may provide their customers, free of charge, samples of alcoholic beverages as a promotion for the sale of the same provided the size of the sample is no greater than two (2) fluid ounces and the total of all samples provided to a customer does not exceed eight (8) fluid ounces.

Sec. 5-13. License Term

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.

Sec. 5-14. License Fees.

- a. Annual, Issuance, and Transfer Fees for the licenses listed in this Section shall be established annually by resolution of the City Council, with the exception of the Legacy License fee, and kept on file with the City Clerk.
- b. **No annual fee will be charged for the Legacy License fee until 12:59am on December 31, 2046. At [1:00am on January 1, 2046], the Legacy Licenses shall automatically revert back to the City and be retired. Those issued a Legacy License must apply for and be approved for one of the other City retail licenses prior to 12:59am on December 31, 2046.**
- c. The License Fees described in this Article shall not be prorated.

Green – Pitner
Proposal

Sec. 5-15. 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.

Sec. 5-16. Exceptions to the limitations as to the number of licenses.

- (a) 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. 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. It is the intent to this subsection that no county licensee shall lose a license to sell alcoholic beverages simply because the licensee 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.

Sec. 5-17. 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.

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- (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:
 - (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 in compliance with this section.

Sec. 5-18. Compliance Checks.

The Minot Police Department will be responsible for conducting compliance checks to determine whether the licensees are conducting business in accordance with all state, local, and federal laws, to include this code of ordinances.

Sec. 5-19 through 5-20. - Reserved.

Division 2. Application and Qualifications for Licenses and Permits.

Sec. 5-21. Application for license – Information required.

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 appropriate fee, showing the following qualifications and providing the following information:

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- (1) Name and address of applicant. If the applicant is a corporation, the name and address of all persons holding 1% or more of the stock in the corporation; if the applicant is a copartnership, the name and address and place of residence of each member of the co-partnership and any persons having any financial interest therein.
 - a. Citizenship status of applicant. Applicant shall state whether they are a citizen of the United States, and if a naturalized citizen, the date and place of naturalization.
 - b. Residence of applicant. Applicant shall state their state of residency, and the place of residence the applicant maintained for the year preceding the date of their application.
 - c. Business entity applicant Information. If the applicant is a business entity, they must include the official name of their business entity, any trade or alternate names, the date of creation or incorporation, the state where created or incorporated, the amount of authorized capital, the amount of the paid in capital and whether such business entity is a subsidiary of any other business entity, and if so, the name of the parent business entity, the purpose for which the applicant business entity was created, and the names and addresses of the corporate officers, directors, and managing agents of the business entity.
 - (2) Name and address of manager. The name and address of the person who will have charge, management, and control of the establishment applying for a license.
 - (3) License Type. The applicant must indicate on the application which license they are applying for.
 - (4) Description and Address of the Licensed Premises. The applicant must list 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.
 - (5) Name and Address of the owner of the Licensed Premises. The name and address of the owner of the premises for which the license is sought by a person other than the owner of such premises, the terms of the lease under which such applicant holds possession of the premises, insofar as the terms of such lease and the rental to be paid therefore are concerned. The applicant, when requested by the City Clerk or other City official reviewing their application, shall furnish that City staff member a copy of the lease under which they hold possession of the premises. If the license is sought by the owner of the premises sought to be licensed, the applicant shall state the time when such applicant acquired title thereto.
 - (6) Tax delinquencies. The applicant must disclose
 - a. Property tax delinquencies. Whether the taxes on the property where their premises will be located are delinquent.

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- b. Personal property tax delinquencies. Whether the personal property taxes of the applicant are delinquent. If a business entity, whether the personal property taxes of corporate officers, directors, and managing agents of the business entity are delinquent.
 - c. City Tax delinquencies. Whether the applicant is delinquent in payment of lodging taxes, sales taxes, or any other tax imposed by the Minot Municipal Code. Applicants are required to provide documentation demonstrating all taxes are current upon request.
- (7) Future Sale/Transfer Agreements. Any agreements or understandings to obtain an alcoholic beverage license for any other person, partnership, or corporation must be indicated on the application.
 - (8) Previous Retail/Similar Businesses Experience/Past Occupation. Applicant shall state their occupation for the past ten (10) years and whether the applicant has ever engaged in the sale or distribution of alcoholic beverages prior to this application and if so, the date and type of business and location where such business took place, whether in or outside of the state. If the application is for a renewal license, the date the applicant first began to operate.
 - (9) Purchase Agreements. If applicant is buying an existing business, application must include a copy of purchase agreement.
 - (10) Lease Agreements. If applicant is leasing an existing business, application must include a copy of lease agreement.
 - (11) Health and Safety Certifications. The building in which business is to be conducted must meet local and state requirements for sanitation and safety. Applicants are required to provide documentation demonstrating they are following all appropriate building, health, safety, and sanitation codes upon request.
 - (12) Mandatory Server Training. The applicant must provide proof their staff has completed mandatory server training as provided in this Chapter.
 - (13) Previous Revocations, Violations, and Convictions. The applicant must list the following:
 - a. Previous Alcohol License Suspensions/Revocations. If the applicant has had a license for the sale of alcoholic beverages suspended or revoked for any violation of state law or local ordinances they must list the names of the entities that acted against their license, the dates of the suspensions or revocations, and the reasons why the license was suspended or revoked.
 - b. Violations of Alcoholic Beverage Laws. The applicant must disclose whether they have ever been convicted of a violation of any law of the United States, any state, or local ordinance regarding the manufacture,

sale, distribution, or possession of alcoholic beverages and if so, list the dates, names of places, and courts where the convictions were found.

- c. Other convictions. Whether the applicant has ever been convicted of any other crime that other than previously stated in their application, in this state or any other state or under any federal law, and if so, the date of such convictions, the name of the crime for which convicted, the amount and terms of the sentence imposed and the court that convicted them.

- (13) Other Information as Requested. City staff or the council 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.

Sec. 5-22. License application deadlines.

- (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) 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 5-21, including but not limited to the renewal license fee and any outstanding fines.

Sec. 5-23. Investigation of application.

The chief of police or their designee shall review all applications, investigate the facts stated therein and the character, reputation, and fitness of the applicant and report the same to the city council. The chief of police shall advise the city council regarding any applicants or licenses that have been subjected to disciplinary action, and any concerns regarding the truthfulness of the information and representations made in the application. For purposes of this section, disciplinary action includes any fines, suspensions, or revocations.

Sec. 5-24. Inspection of licensed premises.

- (a) Any applicant for a license from the City to sell alcoholic beverages must expressly consent to any law enforcement officer, building official, and fire chief, or their designees, of the City of Minot and State of North Dakota to enter the areas of public access of the licensed premises to inspect the same for compliance with city ordinances and state and federal law and to produce for any law enforcement officer the license authorizing them to engage in the sale of alcoholic beverages under this chapter.
- (b) The Chief of Police, Building Official, Fire Chief, or their designees, shall make a written report to the city council describing the applicant's present compliance with these ordinances and state and federal law to include all findings as to the general condition of the proposed license premises, the sufficiency of the structure for the purpose sought to be carried on therein, and their recommendation on whether the structure is suitable for carrying

on a business involving the sale of alcoholic beverages as contemplated in this chapter. 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.

- (c) The Chief of Police, Building Official, Fire Chief, or their designees, shall make the written report to the city council described in preceding paragraph shall within forty-five (45) days of the city clerk receiving the renewal application and all of the materials required under this chapter, including but not limited to the annual license fee. If the Chief of Police, Building Official, Fire Chief, or their designees fail to file the report with the city council within the timeframe specified in this paragraph, the city clerk shall place the application on the next city council agenda for its consideration.

Sec. 5-25. City Clerk to submit application to City Council; approval.

- (a) Upon the receipt by the city council of the reports from the Chief of Police, Building Official, and Fire Chief, or their designees, the council shall make a determination on whether or not to issue the license. In so doing it shall consider the following:
 - a. The reports submitted by City staff;
 - b. Statements made before it at the council meeting wherein the matter is taken up;
 - c. any such matters of which a court could take judicial notice; and
 - d. 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.
- (b) The applicant shall have the following rights:
 - a. To make an argument and/or plea to the council; and
 - b. To comment upon the matters presented to the council; and
 - c. To comment on those matters which the council indicates it will take notice of.
- (c) 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 and the premises complies with this code of ordinances as well as state and federal laws.

Sec. 5-26. 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.

Sec. 5-27. 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.

Sec. 5-28. Disqualifying circumstances.

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

- (1) The applicant or manager must not have been found guilty of, pled guilty to, or released from incarceration or probation for a felony within the last five years.
- (2) The applicant or manager must not have been found guilty of, or pled guilty to, a misdemeanor or an infraction offense contained in North Dakota Century Code chapters 5-01, 5-02, 5-03, 12.1-06, 12.1-08, 12.1-09, 12.1-10, 12.1-11, 12.1-12, 12.1-20, 12.1-22, 12.1-23, 12.1-24, 12.1-27.1, 12.1-28, 12.1-29, 12.1-31, 12.1-31.1, 19-03.1, 53-04, 53-06.1, 53-06.2, or have committed any other crime which has a direct bearing on the applicant's fitness to be involved in the sale or dispensing of alcoholic beverages within the last three years. If such person has pled or been found guilty, or has committed an offense under subsection 2, the applicant may be issued a retail license if the attorney general determines the person to be sufficiently rehabilitated.
- (3) The applicant's building in which the business is to be conducted fails to meet local and state requirements for sanitation and safety.
- (4) The applicant may not have any financial interest in any wholesale alcoholic beverage business.
- (5) False information submitted on a sworn application constitutes grounds for denial of licensure.

Sec. 5-29. 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.

Sec. 5-30. License Renewals.

Unless explicitly stated otherwise in this code of ordinances, applications to renew a license to sell alcoholic beverages shall follow the same process as a new application for a license to sell alcoholic beverage

Sec. 5-31. License Transfers.

No license to sell alcoholic beverages shall be transferred, either as to the license holder or as to the premises, without first making application to and receiving the approval of the city council. The transferee shall also pay the annual fee as established by resolution of the city council. Applications to transfer a license or premises shall follow the same process as a new application for a license to sell alcoholic beverages.

Sec. 5-32 through 5-40. - Reserved.**Division 3. Termination, Suspension, Revocation – Hearing Process.****Sec. 5-41. Termination.**

All licenses issued pursuant to this Chapter shall automatically expire at the end of their License Term. To maintain continuity of services, each license holder must reapply and be approved for a license each year before the expiration of their License Term.

Sec. 5-42. Council authority to suspend or revoke a license.

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, ownership transfer, or change in location of the licensed premises.

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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.
 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 license of the activity authorized by the City of Minot license.

Sec. 5-43. Complaints against Licensees - Notice

- a. Any person having information that a licensee has violated any provisions of this code of ordinances may file a complaint with the Minot Police Department specifically setting forth such violation. Upon receipt of the complaint, the Minot Police Department shall investigate the truth or falsity of the allegations set forth therein.
- b. If the Minot Police Department investigation finds the facts alleged in the complaint are supported by probable cause, the Minot Police Department shall forward the complaint to the City Attorney, who shall assist the City Clerk with scheduling the matter for a hearing not later than the next regular meeting of the local governing body.
 - i. The City Clerk shall ensure a copy of the complaint and notice of hearing is mailed to the licensee by registered mail or hand delivered to the licensee not less than five (5) days before such hearing, exclusive of the date of mailing and date of the hearing.
 - ii. The notice must include:
 1. the date, time, and place of the hearing;
 2. notice to the licensee that its license may be suspended or revoked;
 3. the factual allegations that form the basis of the complaint.
 - iii. The City Clerk shall mail the notice to the licensee's last known address as indicated on the licensee's most recent application on file with the City Clerk's office.
 - iv. The City Clerk shall ensure a record of such hearings is made by the use of an electronic recording device.
- c. 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.
- d. Should the facts alleged in the complaint not be supported by probable cause, the Minot Police Department shall advise the complainant, licensee, and city council of the outcome of their investigation.

Sec. 5-44. Hearings.

- a. The city council shall conduct the public hearings on complaints against licensees – to include consideration of the evidence and testimony presented by witnesses. A member of the local governing body has the power to administer oaths and subpoena and examine witnesses. Any witness called by the City, except a peace officer while on duty, shall receive the same fees and mileage as a witness in a civil case in district court.
- b. If the licensee fails to appear at the hearing, or if he does not dispute the facts set forth in the complaint, 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.
- c. If, upon conclusion of the hearing, it appears to the majority of the city council that sufficient cause exists to revoke or suspend a license, or impose other sanctions or penalties, the city council shall issue its findings, conclusions, and order, which shall then be served on the licensee by certified mail or hand delivered with an affidavit of service.

Division 4. Penalties and Appeals.

Sec. 5-45. Licensee Penalties.

- a. If a licensee admits a violation under this chapter occurred, fails to appear at a scheduled hearing relating to a violation under this chapter, or the city council after a hearing determines that a violation under this chapter occurred, the following penalties shall be applied and assessed, in addition to any other civil or criminal penalties a licensee may be subject to for violating any provision of state, local, or federal law:
 1. First violation: Written warning by the Minot Police Department.
 2. Second violation: Business closed for three (3) consecutive days and a \$500 penalty
 3. Third violation: Business closed for ten (10) consecutive days and a \$750 penalty
 4. Fourth violation: Business closed for forty (40) consecutive days and a \$1,000 penalty
 5. 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.
- b. 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.

Sec. 5-46. Penalty for failure to complete mandatory alcohol server training.

(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.

Sec. 5-47. Appeal.

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. The decision of the city council may be appealed to the district court by following the appeal procedure set forth in North Dakota Century Code chapter 28-32, except that the order revoking or suspending the license is inoperative while the appeal is pending.

Sec. 5-48. No refund of fee when license is terminated, suspended, or revoked.

When a license issued pursuant to this article is terminated, suspended, 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.

Sec. 5-49. 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.

Sec. 5-50 through 5-54 – Reserved.

ARTICLE III. REGULATION OF LICENSED PREMISES, PATRONS, MINORS

Division 1. Licensed Premises Regulations

Sec. 5-55. Special Event Permits; 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:

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- (1) Payment of fees as established by City Council resolution.
 - (2) Submission of an application to the city clerk, at least seven (7) days prior to the event (not including the day of the event). Applications received within twenty-four (24) hours of the event will not be considered. To be considered complete, applications must be made on the form provided by the city clerk, and include any information required by the city clerk, including but not limited to a brief narrative explaining:
 - a. The nature and duration 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 persons under twenty-one (21) years of age at such occasion; and
 - c. A diagram or site map annotating the premise where the event will occur.
 - (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.
 - (6) A permit issued under this section will only be issued for the duration of the occasion identified in the application.

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

Sec. 5-56. Outdoor Premises Requirements – Permit Available.

- (a) 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.

Sec. 5-57. 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.

Sec. 5-58. Premises and Records available.

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.

Sec. 5-59. Removal of wine from restaurant.

If a full bottle of wine has been opened and the contents partially consumed, a retail alcoholic beverage licensee whose gross sales of food are at least thirty percent of the gross sales of alcoholic beverages consumed on the premises may permit an individual purchasing the bottle to remove the bottle when leaving the licensed premises if the licensee reseals 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 under these conditions is not an off sale of wine and is permitted without an additional license.

Sec. 5-60. Sale of beer in kegs – Registration and marking required.

Licensees that sell beer in containers with a liquid capacity greater than six gallons [22.71 liters] must comply with the registration and marking requirements established in state law.

Sec. 5-61. Sale of alcoholic beverages in exchange for goods prohibited.

Any licensee that accepts goods, chattels, or other tangible personal property other than money, checks, legal tender, negotiable instruments, or other evidences of debt, in exchange for any alcoholic beverages is guilty of a class b misdemeanor.

5-62. Licensee to close at certain times.

- (a) No one shall dispense or permit the consumption of alcoholic beverages on a licensed premises outside of the hours permitted by the State of North Dakota for the sale of alcoholic beverages.
- (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).

Sec. 5-63. Wine tasting permitted.

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

Sec. 5-64. 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. 5-65. 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.
- (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.

Sec. 5-66. 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.

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.

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.

Sec. 5-67. Nudity, semi nudity 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) Female breasts below a point immediately above the top of the areola;
 - (2) The pubic regions;
 - (3) The buttocks to include the anus; and
 - (4) Human genitals.
- (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, or shall perform or simulate the erotic touching of the human genitals and pubic regions, buttocks, anus, or female breasts.
- (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.

Sec. 5-68. Sale of alcoholic beverages at golf courses.

- a. A licensee that sells alcoholic beverages at a golf course is allowed to serve alcoholic beverages only in areas that are specifically identified as the licensee's licensed premises, except their licensed premises cannot include their parking lot or the entire golf course itself.
- b. A licensee that sells alcoholic beverages at a golf course may extend their premises 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 shall be required for the sale of alcoholic beverages from a location or cart permitted under this paragraph.

Sec. 5-69. Sale of alcoholic beverages at bowling centers.

- a. A licensee that sells alcoholic beverages in a bowling center must have a designated area where the alcoholic beverages are purchased, served, and/or mixed. Minors are not allowed in the designated area to purchase, serve, and/or mix alcoholic beverages unless an exception under state or local law applies.
- b. The designated areas described in this section must be separated from the rest of the establishment by a permanent partition/barrier which is at least three (3) feet in height.
- c. Alcoholic beverages purchased within the designated area described in this section may be consumed in the bowling area and concourse adjacent to the bowling area.

Sec. 5-70. Sale of alcoholic beverages at movie theaters.

- a. A licensee that sells alcoholic beverages in a movie theater must:
 - 1. designate an alcohol service area on the licensed premises diagram and shall be allowed to serve alcoholic beverages in areas that are specifically identified as the licensee's licensed premises; and
 - 2. require the purchase of a movie theater admission ticket in order to purchase an alcoholic beverage; and
 - 3. serve or deliver only one (1) alcoholic beverage per customer at a time; and
 - 4. refrain from selling alcoholic beverages more than ninety (90) minutes prior to a scheduled movie screening and immediately cease selling alcoholic beverages at the conclusion of the last movie screening and remove all attendees from the licensed premises.
- b. A licensee selling alcoholic beverages in a movie theater acknowledges that their sales are adjunct to the operation of the movie theater and not that of operating a full-time liquor establishment.

Sec. 5-71 through 5-75. - Reserved.**Division 2. Patrons and Minors Regulations****Sec. 5-76. Possession and consumption of alcoholic beverages by minors.**

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- 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.
 - 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. 5-77. 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. 5-78. 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. 5-79. 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;
 - 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;

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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 waiter, 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. 5-80. 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, driver's 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. 5-81. 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. 5-82. Licensee shall not sell or dispense alcoholic beverages to minors.

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. 5-83. 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.

5-84. 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;

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- (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.

Sec. 5-85 through 5-90. - Reserved.

Division 3. Penalties.

Sec. 5-91. General Penalty for Violations of this Chapter

In this chapter, if an act is prohibited, made unlawful, or is a violation of the provisions of this chapter and no specific penalty is provided therefore, any person upon conviction for the violation of any such provision of this chapter shall be punishable according to Section 1-8 of our City's ordinances, for such offense. In the construction and interpretation of this Division, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty from being enforced. Additionally, if this general penalty is in conflict with any specific provision in this Chapter, the two must be construed, if possible, so that the effect may be given to both provisions, but if a conflict between this provision and another provision in this Chapter is irreconcilable, the more specific provision must prevail and must be construed as an exception to this general provision, unless this general provision is enacted later and it is the manifest intent of the Council that this general provision shall prevail.

